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"DUE PROCESS OF LAW"

AND

THE DIVINE RIGHT OF DISSENT

A REVIEW

BY ALONZO T. JONES

Judgment is turned away backward, and justice standeth afar off; for truth has fallen in the street, and equity cannot enter.—*Isaiah 59 : 14.*

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"The SPIRIT OF THE TIMES MAY ALTER, WILL ALTER. Our rulers will become corrupt, our people careless. A single zealot may commence persecution, and better men be his victims. It can never be too often repeated, that the time for fixing every essential right on a legal basis is while our rulers are honest, and ourselves united. From the conclusion of this war we shall be going down hill. It will not then be necessary to resort every moment to the people for support. They will be forgotten, therefore, and THEIR RIGHTS DISREGARDED. They will forget themselves, but in the sole faculty of making money, and will never think of uniting to effect a due respect for their rights. THE SHACKLES, THEREFORE, WHICH SHALL NOT BE KNOCKED OFF AT THE CONCLUSION OF THIS WAR, WILL REMAIN ON US LONG, WILL BE MADE HEAVIER AND HEAVIER, TILL OUR RIGHTS SHALL REVIVE OR EXPIRE IN A CONVULSION."—*Thomas Jefferson, Notes on Virginia, query XVII.*



“ DUE PROCESS OF LAW ”

AND

THE DIVINE RIGHT OF DISSENT.

RELIGIOUS legislation is steadily gaining favor in the public mind, and is intrenching itself more and more strongly in the law of the land. In defiance of specific constitutional provisions, in violation of the fundamental principles of American institutions, and contrary to the plain words of Jesus Christ, religious observances are given the sanction of law, and in pursuance thereof are by the power of the State enforced. The chief, the most comprehensive, and the most far-reaching of all these observances is the Sunday, as Blackstone observes, “vulgarly (but improperly) called Sabbath.”

From the beginning of our national history, Sunday observance has been enforced by all the original thirteen States. By these it was simply the continuation of the colonial system and legislation, when each of the colonies had an established religion ; and from these it has been copied and perpetuated by nearly all the States which in succession have entered the Union. Attempts have also been made to have it copied, established, and enforced by the national Government and authority.

This question has been touched upon several times by both the executive and the legislative branches of the national Government. By the executive branch the action every time has been favorable to the practice ; by the legislative branch the action has been decidedly against it, prior to its act closing the World's Fair on Sunday.

Until 1891, however, the judicial branch of the national Government had never been called upon to take official cognizance of the question. In that year the question of enforced Sunday observance was brought before the Circuit Court of the United States for the Western District of Tennessee, and was acted upon.

This being the first instance of the kind, the action of the court would be worthy of careful consideration, if for no other reason than that it is the first. But in view of the real nature of this action, and the doctrines promulgated by the court in its decision, it is made, for a number of reasons, worthy of the most diligent examination of every American citizen.

THE PROCESS OF LAW.

A statement of the case as it came before the court, will be in order. The Constitution of the State of Tennessee, Article I, under the title of “Bill of Rights,” declares thus : —

“SEC. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience ; that no man can, of right, be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent ; that no human authority can, in any case whatever, control or interfere with the rights of conscience ; and that no preference shall ever be given, by law, to any religious establishment or mode of worship.”

Under this strong and specific guaranty, some of the people of that State proposed to exercise their indefeasible right to act in religious things according to the dictates of their own conscience. Among these are some of the sect known denominationally as Seventh-day Adventists. Reading the Bible for themselves, and believing it as they read it, as they

have the inalienable and constitutional right to do, they believe, as the fourth of the ten commandments says, that "the seventh day is the Sabbath of the Lord." Holding this as an obligation which they owe to the Lord, they render it to the Lord. Then having rendered to God that which is God's, they exercise their God-given right to work the other six days of the week.

But there are also some people in Tennessee who choose to keep Sunday, as they have the right to do. Yet not content with the exercise of their own right to do this, they desire to compel every one else to do it, whether he believes in it or not. Consequently, several of the Seventh-day Adventists were prosecuted for working on Sunday, after having observed the Sabbath. One of these was Mr. R. M. King, of Obion county. For plowing corn in his own field on Sunday, June 23, 1889, he was prosecuted before the justice of the peace, July 6, and fine and costs were assessed at \$12.85, which was collected. This, however, did not satisfy the religious zeal of those who would prohibit the observance of any day but Sunday. But as the only statute on the subject in the State provides only for prosecution "before any justice of the peace of the county;" and provides then only that the person convicted "of doing or exercising any of the common avocations of life" "on Sunday" shall "forfeit and pay *three dollars*," they resorted to extra-statutory measures by which they might execute their arbitrary will. By these measures, if successful, they could have a fine of any amount *above* fifty dollars laid upon any one convicted.

Accordingly, at the July term of the State Circuit Court, Mr. King was indicted by the Grand Jury for Obion county as guilty of the crime of "public nuisance;" "to wit, that he, on the 23d day of June, 1889, and on divers other Sundays before and after that date, and up to the time of taking this inquisition, in the county of Obion aforesaid, then and there unlawfully and unnecessarily engaged in his secular

business, and performed his common avocation of life; to wit, plowing on Sunday, and did various other kinds of work on that day and on Sundays before that day, without regard to said Sabbath days. Said work was not necessary, nor done as a matter of charity, and the doing of said work on said day was and is a disturbance to the community in which done, was offensive to the moral sense of the public, and was and is a common nuisance. So the grand jurors aforesaid present and say that said R. M. King was, in manner and form aforesaid, guilty of a public nuisance by such work on Sunday, etc.”

March 6, 1890, the case was brought to trial at Troy, Obion county, before Judge Swiggert. King was convicted, and fined \$75 and costs. An appeal was taken to the State Supreme Court. There the judgment was confirmed in a verbal decision, citing a former decision in a like case, in which the judgment was confirmed by declaring Christianity to be part of the common law of Tennessee, and that offenses against it were properly indictable and punishable as common-law offenses.

From this, by writ of *habeas corpus*, the case was carried before the Circuit Court of the United States for the Western District of Tennessee, upon the plea that the Fourteenth Amendment of the United States Constitution was violated, in that King was deprived of his liberty “without due process of law.” The Court was composed of District Judge Hammond and Circuit Judge Jackson. The opinion was written solely by Judge Hammond, and was filed in Memphis the afternoon of August 1, 1891. It was printed in full in the Memphis *Appeal-Avalanche* the next day, Sunday, August 2. In the introduction it said: “Judge Hammond says that while he is not authorized to say that Judge Jackson concurs in his *opinion*, which he has not seen, he does concur in the *result* and the *ground* of the *decision*.”

The opinion, as written and printed, is really composed of two parts ; namely, the *law* in the case, and the *dictum* of the Judge as to certain questions raised and principles involved in the arguments of counsel for the petitioner.

First, as to the law in the case. The court decided that the proceeding by which King was convicted, was due process of law, because it is exclusively the province of the courts of Tennessee to declare what is the law in that State ; and that therefore the only competency possessed by the United States Courts, under such a plea, is to inquire whether the procedure has been regular, and not whether the law itself is lawful.

This deduction is seriously to be questioned in any case ; but in *this* case it may not only be seriously questioned but flatly contradicted, because it can be plainly disproved. King's conviction is declared to be in due process of law solely because it is held by the court that it is the prerogative of the Tennessee courts alone to decide what is the law in that State ; and when these courts have declared the law, that *is* the law absolutely, and it can neither be reviewed nor questioned in any other court — this, even though the verdict of the jury and the decision of the courts be actually “erroneous.” In fact, in this decision the Judge plainly says that if it were within his province to decide the question, he would have “no difficulty in thinking that King was wrongfully convicted,” and that there is “not any foundation for the ruling” of the Supreme Court of Tennessee “that it is a common-law nuisance to work in one's fields on Sunday.” But although he distinctly says that King was wrongfully convicted, and the State Supreme Court “wrongfully decided” when it confirmed his conviction, yet, as it rests exclusively with the State Court to decide what is common law in the State, and as the State Court has decided that such is common law, it does not belong to the United States Court to overrule the State de-

cisions ; and therefore he must decide that though the thing was wrongfully done, yet it is “due process of law.”

According to this doctrine, it is difficult to see how it would be possible ever to bring a case into any United States Court by virtue of that clause of the Constitution demanding due process of law. For if by any State a person can be “*wrongfully*” deprived of life, liberty, or property, by common-law procedure, and yet it be in “due process of law ;” and if the *result* be beyond question or review by any other court, it is hardly to be supposed that the comfort of knowing whether the procedure by which said result was reached was regular or irregular, would be sufficient to induce such unfortunate victim to go to the expense of bringing his case before the United States Court.

CHRISTIANITY AND THE COMMON LAW.

But whether *this* doctrine of common law be applicable in any other cases or not, it is certain that it is not in any sense applicable in the case here at bar. It is an undeniable principle of the law that the common law is superseded by the written law. A statute repeals the common law on the same subject ; and a Constitution supplants the common law on all points upon which the Constitution speaks.

Now 1. As a statute takes the place of the common law on the same subject, and as the State of Tennessee has a statute on the subject of Sunday work, it follows that any indictment or prosecution, at common law, for Sunday work, is therefore precluded, and is void.¹

¹ This is not saying nor even admitting that the said statute is either valid or just : it is only saying that where the statute is, procedure by common law or any other means than according to the statute is not due process of law — it is void.

2. As a constitution supplants the common law in all points upon which the constitution speaks ; as the Constitution of Tennessee expressly declares that “no preference shall ever be given *by law* to any religious establishment or mode of worship ;” and as Christianity is in its every intent and purpose a mode of worship ; it follows that when the Supreme Court of Tennessee recognized and established Christianity as a part of the common *law* of that State, that Court did thereby positively give preference *by law* to that religion and its modes of worship. But this, being in violation of the express provision of the Constitution, is in itself void.

It may be well to give some citations upon this point. The Constitution of California contains substantially the same provisions as does that of Tennessee. And upon this same question the Supreme Court of that State spoke as follows : —

“We often meet with the expression that Christianity is part of the common law. Conceding that this is true, it is not perceived how it can influence the decision of a constitutional question. The Constitution of this State will not tolerate any discrimination or preference in favor of any religion ; and *so far as the common law conflicts with this provision, it must yield to the Constitution.* Our constitutional theory regards all religions, as such, equally entitled to protection, and all equally *unentitled to any preference.* Before the Constitution they are all equal. When there is no ground or necessity upon which a principle can rest, but a religious one, then the Constitution steps in and says that you shall not enforce it by authority of law.”—9 *Lee* 513.

The Constitution of Ohio has the same provisions, almost word for word, as has the Constitution of Tennessee. And likewise upon this same question the Supreme Court of that State spoke thus : —

“The Constitution of Ohio having declared ‘that all men have a natural and indefeasible right to worship Al-

mighty God according to the dictates of conscience ; that no human authority can, in any case whatever, control or interfere with the rights of conscience ; that no man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry, against his consent ; and that no preference shall ever be given by law to any religious society or mode of worship, and no religious test shall be required as a qualification to any office of trust or profit,' it follows that neither Christianity nor any other system of religion is a part of the law of this State. We sometimes hear it said that all religions are tolerated in Ohio ; but the expression is not strictly accurate : much less accurate is it to say that one religion is a part of our law, and all others only tolerated. It is not mere toleration that every individual here is protected in his belief or disbelief. He reposes, not upon the leniency of government, or the liberality of any class or sect of men, but upon his natural, indefeasible rights of conscience, which, in the language of the Constitution, are beyond the control or interference of any human authority.” — 2 *Ohio Rep.*, 387.

The Constitution of New York is substantially the same ; and the Supreme Court of that State annihilates the proposition that Christianity is part of the common law, in the following masterly reasoning : —

“The maxim that Christianity is part and parcel of the common law has been frequently repeated by judges and text writers ; but few have chosen to examine its truth or attempted to explain its meaning. We have, however, the high authority of Lord Mansfield, and his successor, the present Chief Justice of the Queen’s Bench, Lord Campbell, for stating as its true *and only sense*,¹ that the law will not permit the essential truths of revealed religion to be ridiculed and reviled. In other words, that blasphemy is an indictable offense at common law. The truth of the maxim in this very partial and limited sense may be admitted. But if we attempt to extend its application, we shall find ourselves obliged to confess that it is unmeaning or untrue. If Christianity is a municipal law, in the proper sense of the term, *as*

¹ We shall see presently, however, that even this sense is not allowable in this country, and that it is not true now, even in England.

it must be if a part of the common law, every person is liable to be punished by the civil power, who refuses to embrace its doctrines and follow its precepts. And if it must be conceded that in this sense the maxim is untrue, it ceases to be intelligible, since a law without a sanction is an absurdity in logic and a nullity in fact.

“Let it be admitted, however, that Christianity is a part of the common law, *in any sense* of the maxim *which those who assert its truth may choose to attribute to it*. The only effect of the admission is to create new difficulties, quite as impossible to overcome as those that have already been stated. How, we would then ask, . . . are we to apply the test which Christianity is said to furnish? It will not be pretended that the common law has supplied us with any definition of Christianity. Yet without a judicial knowledge of what Christianity is, how is it possible to determine whether a particular use, alleged to be pious, is or is not consistent with the truths which Christianity reveals?

“No religious use has been or can be created, that does not imply the existence and truth of some particular religious doctrine; and hence, when we affirm the validity of a use as pious, we necessarily affirm the truth of the doctrine upon which it is founded. In a country where a definite form of Christianity is the religion established by law, the difficulty to which we refer is not felt, since the doctrines of the established church then supply the criterion which is sought; *but with us* it can readily be shown that *the difficulty* is not merely real and serious, but *insurmountable*.” — *4 Sandford's Superior Court Reports*, pp. 181, 182.

All of this Judge Cooley confirms, in these words: —

“It is frequently said that Christianity is a part of the law of the land. . . . But the law does not attempt to enforce the precepts of Christianity on the ground of their sacred character or divine origin. Some of these precepts, though we may admit their continual and universal obligation, we must nevertheless recognize as being incapable of enforcement by human laws. That standard of morality which requires one to love his neighbor as himself, we must admit is too elevated to be accepted by human tribunals as the proper test by which to judge the conduct of the citizen; and one could hardly be held responsible to the criminal

laws, if in goodness of heart and spontaneous charity he fell something short of the good Samaritan. The precepts of Christianity, moreover, affect the heart and address themselves to the conscience; while the laws of the State can regard the outward conduct only: *and for these several reasons Christianity is not a part of the law of the land in any sense which entitles the courts to take notice of and base their judgments upon it*, except so far as they can find that its precepts and principles have been incorporated in and made *a component part of the positive laws of the State.*—*Constitutional Limitations*, p. 584.

3. This provision of the Constitution of Tennessee is a part of the title, “Bill of Rights.” Now another principle of law and government is that—

“Everything in the declaration of rights contained, is excepted out of the general powers of government, and all laws contrary thereto shall be void.”—*Idem.*, p. 46.

As therefore the “Declaration of Rights” of the State of Tennessee has provided that “no preference shall ever be given by law to any religious establishment or mode of worship;” as all matters of conscience, religion, and worship are thereby “excepted out of the general powers of government;” and as “all laws contrary thereto shall be void,” it is clearly demonstrated that the preference given to Christianity as by common law in the State of Tennessee, is void.

There is yet another defect in this theory that Christianity is part of the common law. The theory is drawn from the English courts. But “even in England, Christianity was never considered as a part of the common law so far as that for a violation of its injunctions, independent of the established laws of man, and without the sanction of any *positive act of Parliament made to enforce these injunctions*, any man could be drawn to answer in a common law court,”¹ as was done in this case by the courts of the State of Tennessee.

¹ Supreme Court of Delaware. ² Harrington’s Rep. 553, quoted by Stanley Matthews in case of “Cincinnati School Board on Bible in the Public Schools,” p. 260.

But Judge Hammond himself goes even further than this, and in a communication printed in the *Appeal-Avalanche*, Aug. 30, 1891, shows that "in one of the latest cases in England the Lord Chief Justice pronounced former expressions that Christianity is part of the law of the land, as *dicta*, and not true now."

True enough! It is not true now, and it never was true by any principle of justice or right. We have not space here to go into the details of this thing. It must suffice here simply to observe that it was introduced by fraud, it was established by falsehood, and it has been perpetuated by imposture. And query: As it is "not true now" *in England* that Christianity is part of the law of the land, how can it be true that it is true now *in Tennessee*, which professedly derives the doctrine from England? And further and doubly, How can it be true now in Tennessee in face of the State Constitution, which expressly prohibits it in the declaration that "no human authority can *in any case whatever* control or interfere with the rights of conscience; and no preference shall *ever* be given *by law* to any religious establishment or mode of worship"?

Thus it is demonstrated by the living principles of American law and government, that the procedure of the Tennessee courts in the case of Mr. King, instead of being of absolute authority, as the United States Circuit Court decided, is absolutely void and of no valid authority at all. And the demonstration is complete, the decision of the United States Circuit Court to the contrary notwithstanding, that Mr. King *was deprived of his liberty and property* "WITHOUT DUE PROCESS OF LAW."

THE BELIEF AND AIM OF THE FOUNDERS OF OUR GOVERNMENT.

So much for the *law* of the case, and for the point of law in the decision of the United States Circuit Court. We must now turn to the *dictum* of Judge Hammond upon the principles involved in the arguments of counsel for the petitioner. It will be necessary to enter quite largely into the examination of this, because the positions taken and the propositions set forth by the Judge are so sweeping, and so directly opposed to every principle of American law and government, that it becomes of the first importance to every American citizen to know the position occupied by a United States judge upon the religious rights and liberties of the citizen.

The Judge first very properly observes that —

“It was a belief of Mr. Madison and other founders of our Government that they had practically established absolute religious freedom and exemption from persecution for opinion’s sake in matters of religion; but while they made immense strides in that direction, and the subsequent progress in freedom of thought has advanced the liberalism of the conception these founders had, as a matter of fact, they left to the States the most absolute power on the subject, and any of them might, if they chose, establish a creed and a church, and maintain it. The most they did, as they confessed, was to set a good example by the Federal Constitution; and happily that example has been substantially followed in this matter, and by no State more thoroughly than Tennessee.”

This is all true, and it is well stated. It *was* the aim of the founders of our national Government to establish absolute religious freedom, and exemption from all persecution on account of religion. It was their purpose to make the separation between religion and the Government complete and total, and so to take away from all, the power to persecute under the Government of the United States. This principle, so far

as its practical working was concerned, they were obliged to confine to the national Government, because some of the States at that time had established religions, some even had established churches ; and to have attempted at that time to embody in the national Constitution a provision prohibiting any State from applying a religious test as a qualification for office, or from making any law respecting an establishment of religion, would have been only to defeat all hope of establishing a national Government at all. There was already such an extreme jealousy of a national power, that it was with the greatest difficulty that it was established as it was ; and to have attempted, at the first step, to make it extend to the States in the curtailment of their long-established connection with religion, would have raised such a storm as would have engulfed the whole project of the formation of a national Government.

For these reasons they were compelled to confine this principle, in its practical working, to the national power. But in so doing they designed to set an example worthy of being followed, and which they hoped would be followed, by all the States of the Union. Nor has their hope been disappointed. For so faithfully has the example been followed that, as is well remarked by Judge Cooley upon this specific question,—

“A careful examination of the American Constitutions will disclose the fact that nothing is more fully set forth or more plainly expressed than the determination of their authors to preserve and perpetuate religious liberty, and to guard against the slightest approach toward the establishment of an inequality in the civil and political rights of citizens, which shall have for its basis only their differences of religious belief. . . .

“Those things which are not lawful under any of the American Constitutions may be stated thus :—

“1. Any law respecting an establishment of religion. The legislators have not been left at liberty to effect a union of Church and State, or to establish preferences by law in

favor of any one religious persuasion or mode of worship. There is not complete religious liberty where any one sect is favored by the State and given an advantage by law over other sects. Whatever establishes a distinction against one class or sect is, to the extent to which the distinction operates unfavorably, a persecution ; and if based on religious grounds, a religious persecution. The extent of the discrimination is not material to the principle ; it is enough that it creates an inequality of right or privilege.

"2. Compulsory support, by taxation or otherwise, of religious instruction. Not only is no one denomination to be favored at the expense of the rest, but all support of religious instruction must be entirely voluntary. It is not within the sphere of government to coerce it.

"3. Compulsory attendance upon religious worship. Whoever is not led by choice or a sense of duty to attend upon the ordinances of religion, is not to be compelled to do so by the State. It is the province of the State to enforce, so far as it may be found practicable, the obligations and duties which the citizen may be under or may owe to his fellow-citizens or to society ; but those which spring from the relations between him and his Maker are to be enforced by the admonitions of the conscience, and not by the penalties of human laws. . . .

"4. Restraints upon the free exercise of religion according to the dictates of conscience. No external authority is to place itself between the finite being and the Infinite, when the former is seeking to render the homage that is due, and in a mode which commends itself to his conscience and judgment as being suitable for him to render, and acceptable to its object.

"5. Restraints upon the expression of religious belief. An earnest believer usually regards it as his duty to propagate his opinions and bring others to his views. To deprive him of this right is to take from him the power to perform what he considers a most sacred obligation.

"These are the prohibitions which in some form of words are to be found in the American Constitutions, and which secure freedom of conscience and religious worship. No man in religious matters is to be subjected to the censor-

ship of the State or of any public authority." — *Constitutional Limitations, Chap. XIII, par. 1-9.*¹

Thus, although it be true that the founders of the national Government "left to the States the most absolute power on the subject"² of religion and religious establishments, all the States have followed the grand example set by our governmental fathers, and, by the clearest constitutional provisions, have distinctly repudiated all claim of right to use such power in any case whatever.

But while all this is true of the *Constitutions* of the States, it is not true of the governmental *practice* — and especially of the practice of the judicial branch of the State Governments — under those Constitutions. That is to say, the practice of the governmental authorities on this subject has not been according to the principles declared in the Consti-

¹ It is too bad that it is so, but it *is* so, that in his *comments* following this statement of *principles*, he justifies from *precedents* the violation of the *principles*. This, however, does not affect the principles. The principles are sound, and remain so, notwithstanding the unsound comments.

² From inattention to the Constitution, this fact is very widely misunderstood. It is generally supposed that the First Amendment to the national Constitution guarantees the free exercise of religion in the States. But this is a mistake. The powers of the national Constitution are delegated. And the powers not delegated are reserved. The Tenth Amendment declares that "the powers not delegated to the United States by this Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people." Now the First Amendment is an inhibition upon *Congress*, but not upon *the States*. It says that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;" but it does *not* say that *no State* shall do so. Therefore so far as this Amendment goes, this power was "reserved to the States respectively." As the States have all, by their own Constitutions, repudiated the exercise of any such power, the guaranty has become universal throughout the Union; but it is not made so by any force that is in the First Amendment. The First Amendment to the national Constitution is of no force at all upon any State. Only the last five Amendments are inhibitions upon the States.

tutions. In fact, with a few grand exceptions, the practice has been in violation of the Constitutions rather than in conformity therewith. The course of the State of Tennessee in the case now under consideration, and in others, is a fair illustration of the usual procedure in all the States. And in the consideration of the *dictum* of Judge Hammond, it will be seen that this same baleful practice is followed, and is to be followed if this procedure shall secure such recognition as will establish it as a precedent.

PERSECUTION JUDICIALLY JUSTIFIED.

As already quoted, the Judge says that it was a belief of Madison and other founders of the national Government, that “they had practically established absolute religious freedom and exemption from persecution for opinion’s sake in matters of religion ;” that in this they set a good example, which has been substantially followed by the States ; and that the example has been followed “by no State more thoroughly than Tennessee.” Yet in the rest of that same sentence, and throughout all the rest of his *dictum*, he renders definitions and lays down propositions that are not only utterly subversive of every principle of religious freedom, but which do in plain words declare and justify the doctrine of persecution for religious dissent.

In stating what, according to his view, is the true measure of the freedom of religious belief which is contemplated and guaranteed by the Constitution of Tennessee, he says :—

“Sectarian freedom of religious belief is guaranteed by the Constitution ; not in the sense argued here, that King as a Seventh-day Adventist, or some other as a Jew, or yet another as a Seventh-day Baptist, might set at defiance the prejudices, if you please, of other sects having control of legislation in the matter of Sunday observance, but only in

the sense that he should not himself be disturbed in the practices of his creed ; which is quite a different thing from saying that in the course of his daily labor . . . he might disregard laws made in aid, if you choose to say so, of the religion of other sects."

That is to say, a man may belong to a sect, that sect may have a creed, they may practice according to that creed, and may not be disturbed in such practice ; but at the same time, they must conform to the "laws made in aid of the religion of other sects," who have "control of legislation."

For instance, a man may be a Baptist, and may practice the precepts of the Baptist creed ; but if the Methodists should have control of legislation, they could oblige the Baptists by law to conform to the precepts of the Methodist creed. Or one company of people might be Methodists, another Baptists, another Quakers, and so on ; but if the Roman Catholics only had control of legislation, and should enact laws enforcing Roman Catholic doctrines and precepts, then the Baptists, Methodists, Quakers, etc., would all be obliged to conform to the Roman Catholic precepts, as by law required. And although protected in the undisturbed practice of *their own* creeds, none of these dissenting sects would be in any wise at liberty to disregard the laws made in aid of the religion of the Roman Catholic sect.

Such, according to Judge Hammond's view, is the freedom of religious belief guaranteed by the Constitution of Tennessee. But it seems to us that this is hardly the idea of "absolute religious freedom" which the founders of our Government believed they had practically established. That we have not misconstrued the Judge's meaning, is made clear by a further extract, as follows :—

"If a non-conformist of any kind should enter the church of another sect, and those assembled there were required, every one of them, to comply with a certain ceremony, he could not discourteously refuse because his mode was different, or because he did not believe in the divine sanction of

that ceremony, and rely upon this constitutional guaranty to protect his refusal.”

This is precisely the measure of freedom of religious belief that was “guaranteed” or allowed under the Puritan theocracy of New England. The Congregational Church had control of legislation. It embodied Congregationalist doctrines in the law, and required every one to conform to them. And every one was required to go to church. The Baptists and Quakers did not believe in the divine sanction of those ceremonies. They therefore refused to comply. Their refusal, of course, was counted “discourteous.” This discourtesy was made criminal, because it was indeed a violation of the law. They were first fined, but they refused either to pay the fines or to comply with the required ceremonies. They were then whipped; still they refused. They were then banished, and yet they refused, and the Quakers even refused to be banished. Then they were hanged, and yet those who still lived would not comply with the required ceremonies. *And they had no constitutional guaranty to protect them in their refusal.*

And now, says Judge Hammond, in Tennessee, if a non-conformist of any kind refuses to comply with a certain ceremony required of every one by another sect which has control of legislation, *there is no constitutional guaranty to protect his refusal.* That is to say, according to this view, In Tennessee to-day there is no constitutional guaranty of any freedom of religious belief beyond that which was allowed in New England two hundred and fifty years ago.

And thus would a judge of a United States court throw open the field of legislation to whatever religious denomination may secure control of it, and would justify such denomination in the use of the power thus gained to compel every one to conform to the religious ceremonies in which that sect believes, and which it practices. In fact, the very expressions used contemplate an established religion. The Judge

uses the phrase, "If a non-conformist of any kind," etc. The term "non-conformist" implies an established religion, which creates *conformists*, and whoever refuses assent, thereby becomes a "non-conformist." And in view of this *dictum*, such non-conformist has no constitutional guaranty of protection.

The logical deduction from the two extracts which we have here presented is that enforced conformity to religious observances is just. These two extracts would logically justify persecution by any sect that can secure control of legislation. Nor are we left to make this logical deduction ourselves. The Judge himself plainly declares it, as follows:—

"If the human impulse to rest on as many days as one can have for rest from toil, is not adequate, as it usually is, to secure abstention from vocations on Sunday, one may, and many thousands do, work on that day, without complaint from any source; but if one ostentatiously labors for the purpose of emphasizing his distaste for or his disbelief in the custom, *he may be made to suffer* for his defiance BY PERSECUTIONS, if you call them so, *on the part of the great majority*, who will compel him to rest when they rest."

This is about the clearest statement of the doctrine of persecution that we have ever seen. We have read considerable on the subject of religion and the State. We have read the accounts of persecutions through all the ages from the cross of Christ till this day, and we do not remember any instance in which the doctrine of persecution was positively avowed in words. Enforced religious observance and all those things have been advocated, defended, and justified, of course; but those who did it would not allow that it was persecution. In this day of the nineteenth century, however, and in this case, all pretense of denial is thrown aside, and the doctrine of persecution itself, as such, is distinctly avowed and justified, both in arguments and in words.

The doctrine of persecution is bad enough, in all conscience, when it is advocated as something else than what it

really is ; but when it is distinctly avowed and justified in so many words, intentionally and by authority, then it is far worse. The doctrine of persecution is bad enough when it is preached by religious bigots under cover of something else ; but when it is openly set forth in words, and justified from the judicial bench of the Government of the United States, then it is infinitely worse.

From the extracts here given, it is evident that the freedom of religious belief contemplated in the *dictum* of Judge Hammond, is entirely compatible with a religious despotism. And it is equally evident that the position therein taken, justifies all persecution from the crucifixion of Christ to the case at bar.

And these views are set forth as the legitimate expression of public opinion in Tennessee ! That is to say, that public opinion in Tennessee upon the question of religious belief stands just where it stood in New England two hundred and fifty years ago. We are free to say, however, that we do not believe that such is public opinion in Tennessee. We are not ready, just yet, to confess that in Tennessee there has been no progress in this respect within the last two hundred and fifty years. That on the part of certain individuals there has been no such progress we freely admit ; but that such is the state of public opinion in that State to-day, we do decidedly doubt. It is in order, however, for the press of Tennessee to speak much more plainly than it has yet done, as to whether Judge Hammond has correctly gauged public opinion, or whether he has mistaken his own views for public opinion, in that State, on the question of the constitutional freedom of religious belief.

The reader may for himself form an estimate of the correctness of Judge Hammond's views, so far as the Constitution of Tennessee itself is concerned, by reading again the extract from that document, quoted near the beginning of this review (page 4).

We might here inquire also, whether Judge Hammond, or anybody else, really believes that the doctrine thus set forth by the judge is in accord with the "belief of Mr. Madison and other founders of our Government that they had practically established *absolute religious freedom and exemption from persecution* for opinion's sake in matters of religion"? and whether in this, either he or the State of Tennessee is indeed thoroughly following the example set by those founders of our Government?

THE INDIVIDUAL RIGHT OF RELIGIOUS BELIEF.

From the foregoing extracts, which are a correct outline of the theory of the whole *dictum*, it is seen that there is no recognition of any such thing as the *individual* freedom of religious belief, the *individual* right of conscience, but of "*sectarian* freedom" only. In the whole discussion there is not the slightest appearance of any such thing as the individual right of conscience or of religious belief. Yet the individual right is the American idea, and is the one that is contemplated in the United States Constitution and in the Constitutions of the States, so far as they have followed the example of the national Constitution.

So entirely is the individual right of religious belief excluded from Judge Hammond's view, that he actually refused to entertain, or give any credit to, a certain plea, because he said the petitioner had not proved that the point was "held as a part of the creed of his sect." His words were as follows: —

"Although he testifies that the fourth commandment is as binding in its direction for labor on six days of the week as for rest on the seventh, he does not prove that that notion is held as a part of the creed of his sect, and religiously observed as such."

By this it is clear that the Judge's idea of sectarian freedom of religious belief led him to ignore, yea, even to deny, the individual right of religious belief. For in demanding that the prisoner should prove that his plea is held by a sect, and religiously observed as such by that sect; and in refusing to entertain the plea, because the accused had not proved that it was a part of some creed, and was so religiously observed, the court did, in fact, deny the right of the individual to believe for himself, and to practice accordingly, without reference to any creed, or the belief of any sect as such. And this is only to deny the right of individual belief, and of the individual conscience. Such, however, is neither the American nor the Christian principle of the rights of religious belief.

The Christian and the American principle is the *individual right of conscience*, — the right of the individual to think for himself religiously, without reference to any sect, and without any interference on the part of anybody, much less on the part of the Government. The idea of the national Constitution on this point is clearly expressed in the following words of Mr. Bancroft, which have often been quoted, but which cannot be quoted too often : —

“No one thought of vindicating religion for the conscience of *the individual* until a voice in Judea, breaking day for the greatest epoch in the life of humanity by establishing a pure, spiritual, and universal religion for all mankind, enjoined to render to Cæsar only that which is Cæsar's. The rule was upheld during the infancy of the gospel for all men. No sooner was this religion adopted by the chief of the Roman empire than it was shorn of its character of universality and enthralled by an unholy connection with the unholy State. And so it continued until the new nation, . . . when it came to establish a Government for the United States, refused to treat faith as a matter to be regulated by a corporate body, or having a headship in a monarch or a State. Vindicating the *right of individuality* even in religion, and *in religion above all*, the new nation dared to set the example of accept-

ing in its relations to God the principle first divinely ordained of God in Judea."

And then, as though to emphasize the specific statements thus made, the writer declares that thus "*perfect individuality* is secured to conscience" by the United States Constitution. As a matter of fact, in the realm of conscience there is no other right than the right of the individual conscience. There is no such thing as a collective or corporate conscience. There is no such thing as a sectarian conscience. Conscience pertains solely to the individual. It is the individual's own view of his personal relation of faith and obedience to God, and can exist only between the individual and God. Thus the right of religious belief inheres in *the individual*, and is only the exercise of the belief of the individual as his own thought shall lead him with respect to God and his duty toward God, according to the dictates of his own conscience. And as this is the inherent, absolute, and inalienable right of every individual, as many individuals as may choose to do so have the right to associate themselves together for mutual aid and encouragement.

If Mr. Bancroft's views of the national Constitution, as expressed in the above extract, need any confirmation, it can be furnished to any reasonable extent. It may, indeed, be well to give a few facts further in this line, showing that as Mr. Bancroft has expressed the sense of the Constitution in this respect, so upon this question the Constitution expresses the sense of those who formed it.

During the whole time in which the preliminary steps were being taken toward the formation of the national Constitution, the question of the freedom of religious belief was being thoroughly discussed, and especially by the one man who had more to do with the making of the Constitution than any other single individual, except perhaps George Washington. That man was James Madison.

June 12, 1776, the Virginia Assembly adopted a Declara-

tion of Rights, Section 16 of which contained the following words : —

“That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence ; and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience.”

July 4, following, the Declaration of Independence of all the Colonies was adopted. Shortly afterward, the Presbytery of Hanover, aided by the Baptists and the Quakers in Virginia, presented a memorial to the Assembly of Virginia, asking that the Episcopalian Church be disestablished in that State, and that the example set by the Declaration of Independence be extended to the practice of religion, according to Section 16 of the Bill of Rights.

The Episcopalian Church was disestablished, but in its place a move was made to establish a system by which a general tax should be levied in support of the *Christian religion*. Again the Presbytery of Hanover, the Baptists, and the Quakers came up with a strong memorial in behalf of the free exercise of religious belief, according to the dictates of conscience. In this memorial they said : —

“The duty that we owe to our Creator, and the manner of discharging it, can only be directed by reason and conviction, and is nowhere cognizable *but at the tribunal of the universal Judge*. To judge for ourselves and to engage in the exercises of religion agreeably to the dictates of *our own* conscience, is *an inalienable right*, which upon the principles on which the gospel was first propagated, and the reformation from popery carried on, *can never be transferred to another*.” — *Baird's “Religion in America,” book III, chap. III, par. 22 ; or “The Two Republics,” p. 686.*

Jefferson and Madison gladly and powerfully championed their cause, yet the movement in favor of the general tax was so strong that it was certain to pass if the question came to a vote. Therefore Madison and Jefferson offered a motion

that the bill be postponed to the next Assembly, and that meantime it be printed and circulated among the people. The motion was carried. Then Madison drafted a memorial and remonstrance in opposition to the bill, and this memorial was circulated and discussed more largely among the people than was the bill which it opposed. The following passages are pertinent here:—

“We remonstrate against the said bill: 1. Because we hold it for a fundamental and undeniable truth, that religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence. The religion, then, of *every man* must be left to the conviction and conscience of *every man*; and it is *the right of every man* to exercise it as these may dictate. This right is in its nature *an unalienable right*. It is unalienable because the opinions of men, depending only on the evidence contemplated in their own minds, *cannot follow the dictates of other men*. It is unalienable also, because what is here a right towards men is a duty towards the Creator. It is the duty of every man to render to the Creator such homage, and such only, as he believes to be acceptable to him. This duty is precedent, both in order of time and in degree of obligation, to the claims of civil society. Before any man can be considered as a member of civil society, he must be considered as a subject of the Governor of the universe; and if a member of civil society who enters into any subordinate association must always do it with a reservation of his duty to the general authority, much more must every man who becomes a member of any particular civil society do it with a saving of his allegiance to the universal Sovereign. We maintain, therefore, that in matters of religion no man's right is abridged by the institution of civil society, and that *religion is wholly exempt from its cognizance*.”

“Because, finally, the equal right of every citizen to the free exercise of his religion, according to the dictates of conscience, is held by the same tenure with all our other rights. If we recur to its origin, it is equally the gift of nature; if we weigh its importance, it cannot be less dear to us; if we consult the declaration of those rights ‘which pertain to the good people of Virginia as the basis and foundation of govern-

ment,' it is enumerated with equal solemnity, or rather with studied emphasis. Either, then, we must say that the will of the Legislature is the only measure of their authority, and that in the plenitude of that authority they may sweep away all our fundamental rights; or that *they are bound to leave this particular right untouched and sacred*. Either we must say that they may control the freedom of the press, may abolish the trial by jury, may swallow up the executive and judiciary powers of the State, nay, that they may despoil us of our very right of suffrage, and erect themselves into an independent and hereditary Assembly; or we must say that they have no authority to enact into a law the bill under consideration.”—*Blakely's "American State Papers," pp. 27, 38; or "The Two Republics," pp. 687, 692.*

This remonstrance created such a tide of opposition to governmental favors to religion that the bill was not only overwhelmingly defeated, but there was adopted in its place, Dec. 26, 1785, “the Act for establishing religious freedom,” declaring that as “Almighty God hath created the mind free, . . . all Acts to influence it by temporal punishments or burdens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the holy Author of our religion, who, being Lord both of body and mind, yet chose not to propagate it by coercions on either, as was in his almighty power to do;” and that — “The impious presumption of legislators and rulers, civil as well as ecclesiastical, . . . have assumed dominion over the faith of others, setting up their own opinions and modes of thinking as the only true and infallible, and as such endeavoring to impose them on others, hath established and maintained false religions over the greatest part of the world, and through all time. . . . *Be it therefore enacted by the General Assembly, That no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burdened in his body or goods, nor shall otherwise suffer on account of his religious opinions or beliefs; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in nowise diminish, enlarge, or affect their civil capacities.*

“And though we well know that this Assembly, elected by the people for the ordinary purposes of legislation, have no power to restrain the Acts of succeeding assemblies, constituted with the powers equal to our own, and that therefore to declare this Act irrevocable, would be of no effect in law, yet we are free to declare, and do declare, that the rights hereby asserted are of *the natural rights of mankind*, and that if any Act shall be hereafter passed to repeal the present or to *narrow its operation*, such Act will be *an infringement of natural right*.”—*Idem.*, pp. 23, 26, or *Idem.*, pp. 693, 694.

Immediately following this splendid campaign, direct steps were taken for the formation of a national Constitution, in which movement Madison was one of the leading spirits; and the experience which he had gained in his campaign in Virginia was by him turned to account in the making of the national Constitution, and appeared in that document, in the clause declaring that “no religious test shall ever be required as a qualification to any office or public trust under the United States.” But even this was not sufficient to satisfy the great majority of the people, whose views had been broadened, and whose ideas had been sharpened by the memorable contest and victory in Virginia. Therefore an amendment was demanded by many of the States, more fully declaring the right of religious belief, and as a consequence the very first Congress that ever assembled under the Constitution proposed — and it was adopted, upon the approval of the requisite number of States — that which is now the First Amendment to the national Constitution, declaring that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.”

Thus it is demonstrated that the words of Bancroft express precisely the ideas of the national Constitution upon this question, and that the freedom of religious belief contemplated and guaranteed by that Constitution is the *individual* freedom of religious belief, and not in any sense such as Judge Hammond contemplates, and calls “*sectarian* freedom of religious belief.”

And from this, it further follows that when the Constitution of Tennessee, following, as Judge Hammond himself says, the example of the national Constitution, declares that “no human authority can in any case whatever control or interfere with the rights of conscience,” it means the rights of the *individual conscience*, and in no sense refers to or contemplates any such thing as the rights of a “sectarian” conscience; and that when that same Bill of Rights declares that no preference shall ever be given by law to any religious establishment or mode of worship, it means precisely what it says.

Therefore, nothing can be clearer than that when the Supreme Court of Tennessee gives preference by “common law” to the Christian religion, and its modes of worship, it distinctly violates the Constitution of Tennessee, and invades the rights of the people of Tennessee, as by that Constitution declared. Likewise, nothing can be clearer than that Judge Hammond, in setting forth and defining what he calls “sectarian freedom of religious belief” as the meaning of either the United States Constitution or of the Constitution of Tennessee, misses *in toto* the American idea of freedom of religious belief.

According to the proofs here given, it is evident that Mr. King occupied the American and constitutional position, and asserted and claimed only his constitutional right when he presented the plea which Judge Hammond refused to entertain. And it is equally clear that Judge Hammond exceeded the jurisdiction of a court of the United States when he refused to entertain the plea, and demanded that the prisoner should prove that the point pleaded was a part of some creed, and was religiously practiced by some sect.

Further than this, and as a matter of literal fact, it is but proper and just to say that the sect to which Mr. King belongs not only has no creed, but utterly repudiates any claim of any right to have a creed. The sect to which Mr. King be-

longs occupies the Christian and constitutional ground, and holds the Christian and American idea, that it is every man's right to believe for himself alone, in the exercise of his own individual conscience as directed by the word of God, and to worship accordingly.

Therefore, when the court, either State or United States, demanded that Mr. King should prove that his plea was held as a part of the creed of his sect, it not only demanded what it was impossible for him to prove, but it demanded what he has the inalienable and constitutional right to *refuse to prove*.

IS RELIGIOUS FREEDOM A CIVIL OR CONSTITUTIONAL RIGHT IN THE UNITED STATES ?

• Another extract, full of meaning and of far-reaching consequences, runs as follows : —

“By a sort of factitious advantage, the observers of Sunday have secured the aid of the civil law, and adhere to that advantage with great tenacity, in spite of the clamor for religious freedom, and the progress that has been made in the absolute separation of Church and State. . . . And the efforts to extirpate the advantage above mentioned by judicial decision in favor of a civil right to disregard the change, seem to me quite useless. The proper appeal is to the Legislature. For the courts cannot change that which has been done, *however done*, by the civil law in favor of the Sunday observers.”

This passage is in perfect harmony with the foregoing extracts. It justifies the believers in any religious observance in securing control of legislation, and in compelling all others to conform to such religious observance. And it denies dissenters any appeal, refuge, or resource, other than to do as the oppressors are already doing — that is, by political means to turn the tables, and themselves become the

oppressors. It completely ignores, if it does not specifically deny, any such thing as the individual right of religious belief or of conscience.

The Judge states quite plainly a truth upon which we have always insisted, and which we have endeavored to make plain to all; that is, that the Sunday observers have secured the aid of the civil law, and adhere to that advantage in spite of the clamor for religious freedom, and in spite of the progress which has been made in the absolute separation of Church and State. In other writings and for years, as well as in this review, we have shown, over and over again, and have demonstrated by every proof pertinent to the subject, that the American principle of government is the absolute separation of religion and the State, and that therefore Sunday legislation to any extent whatever is directly opposed to American principles, not only in the abstract, but as specifically defined in the Constitution of the United States, and in the Constitutions of the several States following this example.

We have shown, not only according to the fundamental American principle, but according to the principles and express declarations of Christianity, that religious freedom is the inalienable right of every individual, and that therefore Sunday legislation is not only contrary to American principles, but to the principles and precepts of Christianity itself. And we have abundantly shown that although all this be true, yet the Sunday observers—in utter disregard of the lessons of the whole history of the Christian era, in spite of the principles of the Declaration of Independence and the precepts of the United States Constitution, in defiance of the Christianity which they profess, and in face of the direct statements of Jesus Christ—have not only fastened the iniquitous practice upon almost all the States, but are doing their utmost to turn the national Government and laws also into the same evil tide.

To expose this practice, and the essential evil of the practice, has been our work from the first. Our work has been sneered at. Our opposition to the thing has been counted as fighting a man of straw. Our warnings have been counted as but bugaboo cries. And all this because of "the great enlightenment of this progressive age." And now our proofs, our warnings, and our position stand completely confirmed from a judicial bench of the United States, which not only says that the observers of Sunday hold to their advantage in spite of the arguments for religious freedom, and in spite of all the progress that has been made in the absolute separation of Church and State, but justifies the whole proceeding; and in the face of the Constitution of the United States, and of the State of Tennessee, refuses to relieve a citizen of the United States from this spiteful church oppression, and declares that an effort to obtain a judicial decision in favor of a civil right to disregard an enforced religious observance is "quite useless."

It is therefore certain that so far as the jurisdiction of the United States Court, in which Judge Hammond presides, extends, our warnings and our position in regard to the coming denial of the free exercise of religion in the United States are completely confirmed.

We do not present this as proof that our position is correct; for we have known that just as well from the first day that we took this position, as we know it now; but we present it for the purpose of awakening, if possible, those who have counted our efforts as misdirected, to the *fact* that recognition of the civil right of the free exercise of religious belief is almost, if not altogether, a thing of the past *whenever that question is brought to a positive test*.

"The proper appeal is to the Legislature," says the Judge. Well, suppose Mr. King should make his appeal to the Legislature. And suppose the Legislature, in order to take the broadest and strongest ground that it were possible

to take, and to settle the question forever, should enact a law declaring in so many words that in the State of Tennessee “no human authority can in any case whatever control or interfere with the rights of conscience, and no preference shall ever be given by law to any religious establishment or mode of worship.” Suppose the Legislature should do this, what would it amount to? — Just nothing at all, and for two reasons : —

First, The whole people of Tennessee, in their State Constitution, their supreme law, which is above the Legislature itself, have already made this declaration. And yet “in spite” of it, the Sunday observers have secured control of legislation, and by this have presumed to interfere with and control the rights of conscience, and to give preference by law to their mode of worship. And if the Legislature should enact a similar or any other law on the subject, they would do the same thing in spite of that. Despising the supreme law, they certainly would not hesitate to despise an inferior law.

Secondly, Any such law would amount to nothing, because the Sunday observers would not only despise and override it, but the courts, both State and United States, so far, are partisans of the Sunday observers, and justify their spiteful procedure. Consequently, if the Legislature were to enact such a law, application of the law would certainly be disputed by the Sunday observers. *And no appeal could be made to the courts;* for the Judge has already decided that an appeal to the court is “quite useless.” Any wish or attempt to appeal to the court would therefore be met again by the Judge’s *dictum*, “The proper appeal is to the Legislature.”

In view of this doctrine, therefore, it is proper to inquire What is either court or Constitution for? If the Legislature is supreme, and if the only proper appeal in any question of rights is to the Legislature, then what is the use of either court or Constitution? This point once more sets forth Judge Hammond’s *dictum* as utterly contrary to the American

principle of government, and as inculcating in its stead the British principle of the omnipotence of the legislative power. But such is not the American principle. The American principle is the supremacy of the people, not the supremacy of the Government; the omnipotence of the people, not of the legislative power.

Rights and liberties belong to the people. In their Constitutions the people have set limits to the legislative power, that the rights of the people may not be invaded. And the State Supreme Courts and the United States Courts are established to stand between the Legislature and the people, and to decide upon the constitutionality of the Acts of the Legislature. In other words, to decide whether the Legislature has kept within the limits which have been set by the people in the provisions of the Constitution; to decide whether the rights of the people have been respected or invaded.

Therefore, as it is the province of the State Supreme Courts, and of the United States Courts, to review the Acts of the Legislature, it follows that these courts are the sources of appeal, and the only sources. The proper appeal, therefore, is not to the Legislature, but to the courts.

The Constitutions of the several States and of the United States declare the rights of the people, as citizens of the United States, and of the several States; and in no case is it proper to appeal to the Legislature in any question as to the rights thus declared. To appeal to the Legislature is in itself to surrender the free exercise of the right; that moment the free exercise of the right is admitted to be a matter to be regulated solely by the majority, and is surrendered entirely to the dictates of the majority.

It is true that this is entirely consistent with the other statements of the Judge's *dictum*, and is in harmony with his view of "sectarian freedom of religious belief;" that is, that the majority may rule in religious things, and that there is no right of dissent from the religious views and opinions

enforced by law, in favor of whatever denomination may secure control of legislation. But such is not the American idea of the civil right of dissent.

As we have before proved, the American principle is the principle of the individual right of religious belief; of the individual right of the free exercise of conscience; of the right of the individual to dissent from every religious view of anybody else, and utterly to disregard every religious ceremony, however such ceremony may be regarded by others; the right to refuse to comply with any requirement of any sect, or to conform to any religious ceremony, by whomsoever required. It is the individual right of freedom from any and every provision of law that anybody would invoke for the recognition or enforcement of any religious observance whatever.

This is the right asserted in the Constitution of Tennessee, when it declares that “no human authority can in any case whatever control or interfere with the rights of conscience; and no preference shall ever be given by law to any religious establishment or mode of worship.” It is the right asserted in the United States Constitution, where it is declared that “no religious test shall ever be required as a qualification to any office or public trust under the United States,” and that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.”

Such is the American idea of the individual right to disregard the religious observances of the majority. But when the very courts, both State and United States, which have been established to protect the constitutional rights of the citizen from invasion by an impudent and spiteful majority, abdicate their functions and take the side of the oppressors and justify the oppression, what refuge remains to the citizen? what protection to the minority? — None whatever. Every protective barrier is broken down; every refuge is swept away.

Happily there is yet an appeal to the Supreme Court of the United States. But suppose that court should confirm the doctrine of the Circuit Court, WHAT THEN ?¹

THE DIVINE RIGHT OF DISSENT.

In the extracts which have so far been given from this *dictum*, there has been no recognition whatever of the right of the individual to differ from the majority in any question of religious belief or observance ; no recognition whatever of any right of the individual to think for himself religiously, to believe according to convictions of his own conscience, or to worship according to his belief ; *if in such things he disagrees with the religious ideas of the majority, or dissents from the religious observances practiced by the majority.* There is no recognition of any right of dissent.

Nor have the extracts which we have presented, been selected for the purpose of making this feature especially prominent. Indeed, no such thing is necessary, because this is *the* prominent feature of the whole discussion. There is no recognition of any such thing in the whole course of the Judge's opinion. And the source from which this discussion comes, will justify us in presenting further extracts, showing that such is the nature of the discussion throughout.

This characteristic of the discussion is made the more prominent, too, by the fact that the Judge holds constantly that Sunday is *a religious institution*, and its observance is essentially *religious observance*. He gives no countenance

¹ An appeal was taken to the Supreme Court ; but Mr. King has since died. This ends the present case, but the point in this query is just as important as though Mr. King were yet alive. For other cases will certainly arise, and the question will come before the Supreme Court of the United States at some time

whatever to the pretense that has recently been urged by the Sunday-law advocates, that it is “the economical value of the day of rest, and not its religious character, which they would preserve by civil law.” His statement as to the nature of Sunday observance is as follows : —

“Sunday observance is so essentially a part of that religion [‘the religion of Jesus Christ’] that it is impossible to rid our laws of it.”

This again utterly ignores the fact that according to American principles, as declared both in the Constitution of Tennessee and in the United States Constitution, religious observance can never rightly be made a part of the laws, nor any religion recognized by the laws. The supreme law of the United States declares in so many words that “the Government of the United States is not in any sense founded upon the Christian religion.” And the Supreme law of Tennessee declares that “no preference shall ever be given by law to *any* religious establishment *or mode of worship*.”

Further, this statement, just as far as it is possible for Judge Hammond’s authority to go, sanctions that act by which he himself declares that the observers of Sunday have not only secured the aid of the civil law, but continue to hold it, in spite of every demand for religious freedom, and in spite of the progress which has been made in the absolute separation of Church and State. The Judge therefore knows that Sunday legislation is religious legislation, and that the enforcement of Sunday observance is the enforcement of a religious observance. He knows, also, that this is contrary to the individual freedom of religious belief, and that it is contrary to the principle of absolute separation of Church and State ; for he plainly says that this “sort of factitious advantage” which the observers of Sunday have secured in the control of the civil-law is “in spite of the clamor for religious freedom, and in spite of the progress which has been made in the absolute separation of Church and State.”

But as we have seen, he sanctions this pertinacious action of the Sunday observers, and now he justifies the sanction in the following words : —

“ Civil or religious freedom may stop short of its logic in this matter of Sunday observance. . . . Government leaves the warring sects to observe as they will, so they do not disturb each other; *and as to the non-observer, he cannot be allowed* his fullest personal freedom in all respects. . . . There is scarcely any man who has not had to yield something to this law of the majority, which is itself a universal law *from which we cannot escape in the name of equal rights or civil liberty.*”

It may be indeed that men have been, and still are, required to yield something to this law of the majority in matters of religion; yet it is *certainly* true that no such requirement ever has been, or ever can be, just. It is *certainly* true that neither civil nor religious freedom can ever stop short of its logic in any question of religious belief or religious observance.

Religious belief is a matter which rests solely with the individual. Religion pertains to man's relationship to God, and it is the man's personal relationship of faith and obedience, of belief and observance, toward God. Every man has therefore the personal, individual, and inalienable right to believe for himself in religious things. And this carries with it the same personal, individual, and inalienable right *to dissent* from any and every other phase of religious belief that is held by anybody on earth.

This right is recognized and declared by Jesus Christ, not only in the words in which he has commanded every man to render to God that which is God's, while rendering to Cæsar that which is Cæsar's, but likewise in the following words : “ If any man hear my words, and believe not, I judge him not; for I came not to judge the world, but to save the world. He that rejecteth me, and receiveth not my words,

hath one that judgeth him : the word that I have spoken, the same shall judge him in the last day.” John 12 : 47, 48.

The word which Christ spoke is the word of God. The one who is to judge, therefore, is God ; and in the last day he will judge every man for the way in which he has acted. To this judgment the Lord Jesus refers every man who refuses to believe and rejects his words. If any man hears Christ's words, and believes not, but rejects him and his words, Christ condemns him not, judges him not, but leaves him to the Judge of all, who in the last day will render to every man according to his deeds.

In this, therefore, the Author of Christianity, the Saviour of the world, has clearly recognized and declared the right of every man to dissent from every religion known to mankind, and even from the religion of Christ itself, being responsible only to God for the exercise of that right. He wants every man to believe and be saved, but he will compel none. Christ leaves every man free to receive or reject, to assent or dissent, to believe or disbelieve, just as he chooses : his responsibility is to God alone, and it is the individual who must answer for himself in the last day. “So then every one of us shall give account of *himself* to *God*.” Rom. 14 : 12.

Whoever, therefore, presumes to exercise jurisdiction over the religious belief or observances of any man, or would compel any man to conform to the precepts of any religion, or to comply with the ceremonies of any religious body, or would condemn any man for not believing or complying,—whoever would presume to do any such thing puts himself above Jesus Christ, and usurps the place and the prerogative of God, the Judge of all.

Such is the doctrine of the free exercise of religion, as announced by Jesus Christ himself. And such is the doctrine upon this point that will ever be held by every one who respects that glorious Being. Thus is declared and estab-

lished by the Author of all true religion, *the inalienable*, the divine, *right of dissent*. And such is the *divine right* of the freedom of religious belief.

Now, as it is the inalienable, the divine, right of every man to dissent from any and every church doctrine, and to disregard every church ordinance, institution, or rite, it follows that whenever the State undertakes to enforce the observance of any church ordinance or institution, it simply makes itself the champion of the church, and undertakes to rob men of their inalienable right to think and choose for themselves in matters of religion. Men are therefore and thereby compelled either to submit to be robbed of their inalienable right of freedom of thought in religious things, or else to disregard the authority of the State. And the man of sound principle and honest conviction will never hesitate as to which of the two things he will do.

When the State undertakes to enforce the observance of any church ordinance or institution, and thus makes itself the champion and partisan of the church, then *the inalienable right of men to dissent from* CHURCH doctrines and to disregard church ordinances and institutions, *is extended to the authority of the STATE* in so far as it is thus exercised. And that which is true of *church* doctrines, ordinances, and institutions, is equally true of *religious* doctrines and exercises of all kinds.

Nor is this all in this connection. The makers of the Government of the United States recognized this divine right as such, and established the exercise of it as an inalienable *civil* right, “by refusing to treat faith as a matter of government, or as having a headship in a monarch or a State;” by excluding all religious tests; and by forbidding Congress ever to make “any law respecting an establishment of religion, or prohibiting the free exercise thereof.” In short, by prohibiting the law-making power from making any law whatever upon the subject of religion.

The people of Tennessee, following this example of the makers of the national Government, established in that State this *divine* right, as also an inalienable *civil* right, by declaring that “no human power can in any case whatever control or interfere with the rights of conscience ; and no preference shall ever be given by law to any religious establishment or mode of worship.”

And thus “the people of the United States, in harmony with the people of the several States, adopted the principle first divinely ordained by God in Judea.”

Therefore, it can never be true in the United States, that either civil or religious freedom may of right stop short of its logic in this matter of Sunday observance, nor in any other matter of religion or religious observance.

Now Sunday as an institution, with its observance, is of the Church only. Its origin and history are religious only. Yet of Sunday observance enforced by law, Judge Hammond speaks thus : —

“The fact that religious belief is one of the foundations of the custom [of Sunday observance] is no objection to it, as long as the individual is not compelled to observe the religious ceremonies others choose to observe in connection with their rest days.”

This argument has been made before, by several of the Supreme Courts of the States, but it is as destitute of force as is any other attempt to sustain the Sunday institution. If the argument be legitimate, there is no religious observance known that could not be enforced by law upon all the people, simply by giving the observers of the institution control of legislation. Certain people believe in and practice a certain religious observance, and have sufficient influence to control legislation, enforcing it in their own behalf. Thus the custom is made a part of the law, and as the laws are made presumably for the public good, it is then but a short and easy step to the position that the laws enforcing such observances

are for the public good, and not particularly to favor religion ; and that *therefore*, though religious belief be the foundation of the custom, and though the observance be in itself religious, this cannot be suffered to be any objection to it, so long as the individual is not compelled to observe other religious ceremonies that have not yet been fixed in the law.

This is all very pretty, and it seems always to have been eminently satisfactory to those who make the argument ; for it is not by any means new or peculiar to this day or generation. It is as old as is the contest for the right of the free exercise of religious belief. It was the very position occupied by Rome when the disciples of Christ were sent into the world to preach religious freedom to all mankind. Religious observances were enforced by the law. The Christians asserted and maintained the right to dissent from all such observances ; and in fact, from *every one* of the religious observances of Rome, and to believe religiously for themselves, though in so doing they totally disregarded the laws, which, on the part of the Roman State, were held to be beneficial to the population. Then it was held that though religious belief was the foundation of the custom, yet this was no objection to it, because it had become a part of the legal system of the Government, and was enforced by the State for its own good. But Christianity *then* refused to recognize any validity in any such argument.

When paganism was supplanted by the papacy in the Roman empire, the same argument was again brought forth to sustain the papal observances, which were enforced by imperial laws ; and through the whole period of papal supremacy, Christianity still refused to recognize any validity whatever in the argument.

Under the Calvinistic theocracy of Geneva, the same argument was again used in behalf of religious oppression. In England the same argument was used against the Puritans and other dissenters, in behalf of religious oppression there. In

New England, under the Puritan theocracy, the same argument was used in behalf of religious oppression, and to justify the Congregationalists, who had control of legislation, in compelling the Baptists and the Quakers, under penalty of banishment and even of death, to conform to the religious observances of the Congregationalists. But through it all, Christianity always refused to recognize any validity whatever in the argument, and it always will.

“The rulers of Massachusetts put the Quakers to death and banished the Antinomians and ‘Anabaptists,’ *not* because of their religious tenets, but because of their *violations of the civil laws*. This is the justification which they pleaded, and it was the best they could make. Miserable excuse! But just so it is: wherever there is such a union of Church and State, heresy and heretical practices are apt to become violations of the civil code, and are punished no longer *as errors in religion*, but *infractions of the laws of the land*. So the defenders of the Inquisition have always spoken and written in justification of that awful and most iniquitous tribunal.” — *Baird’s “Religion in America,” page 94, note.*

The truth of the matter is, the fact that religious belief is one of the foundations of the custom is the strongest possible objection that could be made to its being recognized and enforced by the civil power. This is demonstrated by several distinct counts.

1. Jesus Christ has commanded, “Render to Cæsar the things that are Cæsar’s; and to God the things that are God’s.” In this the Lord has distinctly and positively separated that which pertains to Cæsar from that which pertains to God. Things religious are due to God only; things civil are due to Cæsar. When the civil power—Cæsar—exacts that which is due to God, then it puts itself in the place of God, and so far as this exaction is recognized, God is denied, civil and religious things are confounded, the distinction which Christ has made is practically thrown aside, and the things which he separated are joined together. Upon

another subject, he declared, "What God hath joined together, let not man put asunder." And upon this subject it may be declared with equal force, What God hath separated, let not man put together. When the civil power legally adopts a religious custom, and enforces the observance thereof, it does put itself in the place of God. But no power has any right to put itself in the place of God. Therefore, no civil power can ever of right legally adopt and enforce any religious custom or observance. And wherever such a thing is done, he who regards God the most will respect such action the least.

2. The history of more than eighteen centuries demonstrates that the very worst bane of government is for religionists to have control of the civil power. The legal recognition and enforcement of religious customs, or of customs of which religion is the foundation, is to give religionists control of the civil power just to that extent. And the doing of the thing to *any* extent justifies the doing of it to every conceivable extent. It was this that tortured Christians to death under pagan Rome, and in later centuries under papal Rome. It was this that burnt John Huss at Constance, and Servetus at Geneva; and that whipped and banished the Baptists, and banished and hanged the Quakers, in New England.

The fathers of the American Republic, having before them the whole of this dreadful history, proposed that the people of this nation should be profited by the fearful example, and should be forever free from any such thing. They therefore completely separated the national Government from any connection whatever with religion, either in recognition or in legislation. And in this they set the States the perfect example of human government, which example has been followed in the Constitutions of the States, and by none more thoroughly than by Tennessee.

Yet it has ever been the hardest thing to get the courts of the States to recognize the principle, though distinctly

declared in the State Constitutions. And here, in the very first instance in which the United States Court has had opportunity to notice it, instead of the principle's being recognized, it is revolutionized ; and instead of the American doctrine of the nineteenth century, the Roman doctrine of the first century is inculcated.

3. We have proved by the express words of Christ, the divine right of dissent in all religious things ; that any man has the divine right to dissent from any and every religious doctrine or observance of any body on earth. So long as civil government keeps its place, and requires of men only those things which pertain to Cæsar,—things civil,—so long there will be neither dissent nor disagreement, but peace only, between the government and all Christian sects or subjects. But just as soon as civil government makes itself the partisan of a religious party, and sets itself up as the champion of religious observances, just so soon this right of dissent in religious things is extended to the authority of the government, *in so far* as that authority is thus exercised. And so far there will be dissent on the part of every Christian in the government.

Sunday observance is in itself religious, and religious only. The institution is wholly ecclesiastical. The creation of the institution was for religious purposes only. The first law of government enforcing its observance was enacted with religious intent ; such has been the character of every Sunday law that ever was made ; and such its character is recognized to be in the case at bar in the decision under discussion. The Sunday institution is of ecclesiastical origin only, and its observance is religious only. It is the divine right of every man utterly to ignore the institution, to disregard its observance, and to dissent from the authority which instituted or enjoins it. And when any State or civil government makes itself the partisan of the ecclesiastical body which instituted it, and the champion of the ecclesiastical author-

ity which enjoins it, and enacts laws to compel men to respect it and observe it, this divine right of dissent is then extended to the authority of the government, *so far as it is thus exercised.*

The fact that religious belief is the foundation of the custom, is the one great objection to its observance by any law of any government on earth. And as for the Government of the United States, or of the several States, so entirely is this true, and so certainly and firmly does the principle hold, that even an Act which might otherwise be deemed expedient or valuable as a municipal regulation, would be positively precluded by the Constitution, if it forbade or enjoined any religious observance; that is, if it infringed the free exercise of religion. This point is well stated by the Supreme Court of California in these words: —

“Had the Act been so framed as to show that it was intended by those who voted for it as simply a municipal regulation; yet if, in fact, it contravened the provision of the Constitution securing religious freedom to all, we should have been compelled to declare it unconstitutional for *that* reason.”—9 *Lee*, 515.

The *principle* is that it would be impossible for as much damage to accrue to the State or society through the loss of the supposed benefit, however great, as would certainly accrue to both State and society by thus giving to religionists the control of the civil power.

Therefore the simple truth is that that which the Judge pronounces no objection, is in itself the strongest possible objection. “The fact that religious belief is one of the foundations of the custom”—this fact is in itself the one supreme objection which sweeps away every excuse and annihilates every argument that ever can be made in favor of any Sunday law, or in favor of any other law recognizing or enforcing any religious observance, or any custom founded upon any religious observance.

IS THIS THE NINETEENTH CENTURY, OR IS IT THE FIRST?

Jesus Christ came into the world to set men free, to make known to all mankind the genuine principles of freedom, and of religious freedom above all. The Roman empire then filled the world,—“the sublimest incarnation of power, and a monument the mightiest of greatness built by human hands, which has upon this planet been suffered to appear.” That empire, proud of its conquests and exceedingly jealous of its claims, asserted its right to rule in all things, human and divine. As in those times all gods were viewed as national gods, and as Rome had conquered all nations, it was demonstrated by this to the Romans that their gods were superior to all others. And although Rome allowed conquered nations to maintain the worship of their national gods, these, as well as conquered people, were yet considered as only servants of the Roman state. Every religion, therefore, was held subordinate to the religion of Rome, and though “all forms of religion might come to Rome and take their places in their Pantheon, they must come as the servants of the state.”

The Roman religion itself was but the servant of the state; and of all the gods of Rome there were none so great as the genius of Rome itself. The chief distinction of the Roman gods was that they belonged to the Roman state. Instead of the state's deriving any honor from the Roman gods, the gods derived their principal dignity from the fact that they were gods of Rome. This being so with Rome's own gods, it was counted at Rome an act of exceeding condescension to recognize, legally, any foreign god, or the right of any Roman subject to worship any other gods than those of Rome. Neander quotes Cicero as laying down a fundamental maxim of legislation, as follows:—

“No man shall have for himself particular gods of his own ; no man shall worship by himself any new or foreign gods, unless they are recognized by the public laws.”

Another principle, announced by Mæcenas, one of the two chief advisers of Augustus, was this : —

“Worship the gods in all respects according to the laws of your country, and compel all others to do the same, but hate and punish those who would introduce anything whatever alien to our customs in this particular.”

Accordingly, the Roman law declared as follows : —

“Whoever introduces new religions, the character and tendency of which are unknown, whereby the minds of men may be disturbed, shall, if belonging to the higher rank, be banished ; if to the lower, punished with death.”

The Roman empire filled the world. Consequently there was a government ruling over all, in which religion and the state were held to be essentially one and indivisible.

Jesus Christ gathered to himself disciples, instructed them in his heavenly doctrine, bestowed upon them the divine freedom — the soul-freedom — which he alone can give, endowed them with power from on high, and sent them forth into the world to preach to every creature this gospel of freedom, and to teach all to observe all things whatsoever he had commanded them.

He had commanded them to render to Cæsar only those things that were Cæsar's, and to God the things which are God's. This statement was the declaration of the principle of the total separation of religion and the state ; and in the mind of every true disciple it was a divine command, inseparable from the divine life, and supported by divine power.

In the exercise of this right the disciples went everywhere, preaching the word, and calling all people to the joy of the salvation of Christ, and to the freedom which that salvation gives. But it was contrary to the principles of Rome. It was actually forbidden by the laws, — laws, too, and principles

which were of established usage long before Christ came into the world. The law forbade the introduction of any new religion, but the Christians introduced a new religion. The law especially forbade the introduction of any new religion the tendency of which was to disturb men's minds. Of all religions, the Christian religion appeals most directly and most forcibly to the mind. In the very letter which the apostle Paul wrote to the Christians in Rome, he said to them: "Be not conformed to this world, but be ye transformed *by the renewing of your mind*;" and of himself he says, "With *the mind* I myself serve the law of God." The law commanded all to worship the gods according to the law. The Christians refused to worship any of the gods recognized by the law, or any other god but the God revealed in Jesus Christ.

According to Roman principles, the Roman state was divine. Cæsar was the embodiment of the Roman state, and was therefore divine. Divine honor was therefore exacted toward the emperor; and, as a matter of fact, the worship of the emperor was the most widespread of any single form of worship known to Rome. He was the chief Roman divinity; accordingly, under the Roman system, that which was due to God was due to Cæsar. Consequently, when the Christians refused to render to Cæsar the things that were God's, and rendered to him only that which was Cæsar's, it was a refusal to recognize in Cæsar any attribute of divinity. But as Cæsar was the embodiment of the state, to deny to him divinity was to deny likewise divinity to the state.

The preaching of the gospel of Christ, therefore, raised a positive and direct issue between Christianity and the Roman empire. And this was an issue between two principles,—the principle of the freedom of the individual conscience, and therefore the principle of the separation of religion and the state; as against the principle of the union

of religion and the state, and therefore the principle of the absolute subjection and enslavement of the individual conscience. Rome refused to recognize the principle of Christianity, and Christianity would not yield the principle. The contest was carried on two hundred and fifty years, through streams of blood and untold suffering of the innocent. Then Rome, by an imperial edict, recognized the justice of the Christian principle, and the right of every man to worship whatever God he pleased, without any interference on the part of the state. The principle of Christianity had triumphed!

Then paganized bishops, ambitious of absolute power, through a dark intrigue with the emperor Constantine, succeeded in establishing a union of the Catholic religion with the Roman state, and thus perverted to the interests of the papacy the victory which had been so nobly won, and again Christianity had to take up the contest in behalf of the rights of conscience, and of the separation of religion and the state. And again through torrents of blood and untold suffering of the guiltless, for more than a thousand years, the papacy made its way to the place of supreme authority in the world.

Then came the Reformation, announcing anew to the world the Christian principle of the absolute separation of religion and the state, and the rights of the individual conscience, and by an unswerving exercise of the divine right of dissent, established Protestantism. But, sad to say, even Protestantism was presently perverted, and the Christian principle was violated which gave it of right a name in the world. Then the contest had still to go on, as ever, through blood and suffering of the innocent, by the Christians' exercise of the divine right of dissent, of the freedom of conscience, and by a protest against a false Protestantism in Geneva, in Scotland, in England, in New England, in Virginia, and all the other American Colonies, except Rhode Island alone.

Then arose the new nation, declaring before all people that "all men are created equal, and are endowed by their Creator with certain unalienable rights, among which are life, liberty, and the pursuit of happiness; that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed:" and when the national Government was formed, recognizing and establishing, as an example to all the world, and as a principle of the Government itself, *the Christian principle of the absolute separation of Church and State, and therefore the divine right of the free exercise of the individual conscience*; and requiring of men that they render to Cæsar only that which is Cæsar's, and leaving them absolutely free to render to God that which is God's, or not to render it at all, even as the individual might choose in the exercise of his own personal individual right of conscience.

Thus, after ages of bloodshed and suffering, through fearful persecution by paganism, Catholicism, and false Protestantism, the Christian principle of freedom of conscience and the separation of religion and the state was made triumphant before all the world.

Much has been said (none too much, however) in praise of the wisdom of the fathers of this Republic in establishing a Government of such magnificent principles; but it would be an impeachment of their common sense to think of them that they could have done any less or any other than that which they did. The history of those ages was before them. They saw the sufferings that had been endured in behalf of the rights of conscience, and which had been inflicted in every instance by religious bigots in control of the civil power. Were they to shut their eyes upon all this, and go blindly blundering on in the same course of suffering and of blood?

Both the history and the philosophy of the whole matter is expressed by Madison in that magnificent memorial and

remonstrance which he wrote in behalf of the free exercise of religious belief in Virginia, the principles of which were likewise, by his influence, embodied in the national Constitution. He said : —

“A just government, instituted to secure and perpetuate it [public liberty], . . . will be best supported by protecting every citizen in the enjoyment of his religion with the same equality which protects his person and his property ; by neither invading the equal rights of any sect, nor suffering any sect to invade those of another. . . . What a melancholy mark is the bill of sudden degeneracy ! Instead of holding forth an asylum to the persecuted, it is itself a signal of persecution. It degrades from the equal rank of citizens all those whose opinions in religion do not bend to those of the legislative authority. Distant as it may be, in its present form, from the Inquisition, it differs from it only in degree. The one is the first step, the other is the last, in the career of intolerance. . . . Torrents of blood have been spilt in the Old World in consequence of vain hopes of the secular arm to extinguish religious discord by proscribing all differences in religious opinion. Time has at length revealed the true remedy. Every relaxation of narrow and rigorous policy, wherever it has been tried, has been found to assuage the disease. The American theater has exhibited proofs that equal and complete liberty, if it does not wholly eradicate it, sufficiently destroys its malignant influence on the health and prosperity of the State. If, with the salutary effects of this system under our own eyes, *we begin to contract the bounds of religious freedom*, we know no name which will too severely reproach our folly.”

The lessons of history were not lost upon the noble minds that formed the Government of the United States. The blood which had been shed, and the sufferings which had been endured, both in the Old World and in the New, bore their fruit in the right of the free exercise of religion, guaranteed by the supreme law of the new nation — the right of every citizen to be protected in the enjoyment of religion with the same just and equal hand that protects his person and his property. This right, in the meaning and intent of

those who declared and established it, is the right of "equal and complete liberty," of complete religious freedom, the bounds of which should never be contracted. This is the sense in which the doctrine of the free exercise of religious belief is declared and established by the Constitution of the United States, and by the Constitution of Tennessee and the several States which have followed the example of the national Constitution.

Now, in view of history and these facts, please read the following extract from Judge Hammond's *dictum* on the question of religious freedom : —

"This very principle of religious freedom is the product of our religion, as all of our good customs are ; and if it be desirable to extend that principle to the ultimate condition that no man shall be in the least restrained, by law or public opinion, in hostility to religion itself, or in the exhibition of individual eccentricities or practices of sectarian peculiarities of religious observances of any kind, or be fretted with laws colored by any religion that is distasteful to anybody, *those who desire that condition must necessarily await its growth into that enlarged application.* But the courts cannot, in cases like this, ignore the existing customs and laws of the masses, nor their prejudices and passions even, to lift the individual out of the restraints surrounding him, because of those customs and laws, *before the time has come* when public opinion¹ shall free all men in the manner desired. Therefore it is that *the petitioner cannot shelter himself just yet behind the doctrine of religious freedom* in defying the existence of a law and its application to him, which is distasteful to his own religious feeling or fanaticism," etc.

Is it possible that the history of eighteen centuries has taught no lesson that can be learned by a court of the United

¹ It is a rather peculiar doctrine in jurisprudence that a court shall gauge its decisions by public opinion. Courts are supposed to construe the law and declare what the law is, rather than to be feeling about to see what public opinion is. Judges are pledged to declare the law and to administer justice, "without fear of punishment or hope of reward," and not to stand in awe of public opinion, nor to decide what public opinion is.

States? Can it be possible that the streams of blood that have been shed, and the fearful sufferings that have been endured, in behalf of the rights of conscience and the free exercise of religion, have been in vain? Do we indeed stand in the first century instead of the nineteenth? And from there are we to "await the growth" of the principle of religious freedom into such an enlarged application that religion and the State shall be separate? and that every man may enjoy the free exercise of religion, according to the individual conscience? Is it true that the time has not yet come when men can be counted free from religious oppression,—free from religious observances enforced by law—enforced, too, "in spite of religious freedom and in spite of the progress that has been made in the absolute separation of Church and State"? Is it true that from such oppression men cannot shelter themselves yet behind the doctrine of religious freedom?

Again, we can only inquire, and in astonishment, too, Has the history of the past eighteen centuries no lesson upon this subject that can be learned by a court of the United States? Have the sufferings through these centuries for this principle all been endured in vain? Has the work of our governmental fathers been utterly in vain? Do we truly live in the nineteenth century and in the United States? or do we live in the first century and in Rome?

JUDGE HAMMOND AND THE SEVENTH-DAY ADVENTISTS.

Another very important, and what would seem a rather peculiar, passage is the following : —

“The petitioner cannot shelter himself just yet behind the doctrine of religious freedom in defying the existence of a law, and its application to him, which is distasteful to his own religious feeling or fanaticism, — that the seventh day of the week, instead of the first, should be set apart by the public for the day of public rest and religious practices. That is what he really believes and wishes, he and his sect, and not that each individual shall select his own day of public rest, and his own day of labor. His real complaint is, that his adversaries on this point have the advantage of usage and custom, and the laws founded on that usage and custom, not that religious freedom has been denied to him. He does not belong to the class that would abrogate all laws for a day of rest, because the day of rest is useful to religion, and aids in maintaining its churches ; for none more than he professes the sanctifying influence of the fourth commandment, the literal observance of which, by himself and all men, is the distinguishing demand of his own peculiar sect.”

This is an important statement for more reasons than one. It presumes to define for Mr. King, and the people with whom he is religiously connected, just what they really believe and wish. The thing is done, too, in such a way that it appears that the Judge considers himself capable of defining their beliefs and wishes, *according to his own views*, more plainly and more authoritatively than they themselves are able to do.

We say that his statement is the statement of *his own views*, and not theirs, because we personally know that as a matter of fact the views attributed to them by Judge Hammond are not in any sense the views held by themselves, as is a matter of public record. In other words, we know and are abun-

dantly able to prove, and shall prove, that the statements made by Judge Hammond, as quoted above, are not true in any sense whatever.

As to the belief and wish of Mr. King as an individual, in this respect, we are able to present it in his own words, over his own signature, as the following plainly shows : —

“43 BOND ST., NEW YORK CITY, Oct. 6, 1891.

“*Mr. R. M. King,*

“*Lane, Dyer Co., Tenn.*

“DEAR SIR,—His Honor, Judge E. S. Hammond, in his decision in your case, made certain statements in regard to your own personal faith as to laws enforcing the observance of the Sabbath which you observe, which, from what I know of yourself and your people, seem certainly mistaken. I send you herewith these statements, numbered separately, with questions annexed, to which I wish you would write your own answers as to your own personal and individual belief.

“Please answer, and return as soon as possible, and oblige,

Truly yours,

“ALONZO T. JONES,

“*Editor American Sentinel.*”

The statements of Judge Hammond and the questions below, were sent to Mr. King, to which he replied as follows : —

“LANE, TENN., Oct. 11, 1891.

“*Mr. A. T. Jones,*

“*Bond Street, New York City.*

“DEAR SIR,—Your letter of the 6th to hand. I will now proceed to answer the questions in regard to the statements made by His Honor, Judge E. S. Hammond, in his decision on my case.

[The *answers* to questions below, are the words of Mr. King.]

“The Judge’s statements are as follows : —

“1. ‘His own religious feeling or fanaticism [is] that the seventh day of the week, instead of the first, should be set apart by the public for the day of public rest and religious practices.’

“*Question.*—Is this true, or was it ever true in any sense?

“*Answer.*—‘This is not true, and never was true in any sense.’

“2. ‘This is what he really believes and wishes, he and his sect, and not that each individual shall select his own day of public rest and his own day of labor.’

“*Question.*—(1.) Is this true in any sense? *That is*, do you ‘really believe and wish’ what he says you do?

“*Answer.*—‘I never did believe or wish for such a thing.’

“(2.) Do you really believe and wish what he says you *do not*, that is, that ‘each individual shall select his own day of public rest and his own day of labor’?

“*Answer.*—‘I believe God has set apart the day; but so far as human government is concerned, each individual should be left free to rest or to work.’

“(3.) To the best of your knowledge and belief, is that which the Judge here says, a true statement of the belief and wishes of your sect upon this point?

“*Answer.*—‘I never knew of any of my sect believing or wishing for such a thing.’

“3. ‘His real complaint is that his adversaries on this point have the advantage of usage and custom, and the laws formed on that usage and custom, not that religious freedom has been denied to him.’

“*Question.*—(1.) Is it true in any sense that your real complaint is that the Sunday observers have the advantage?

“*Answer.*—‘It is not.’

“(2.) Is it your real and unqualified complaint that religious freedom has been denied you?

“*Answer.*—‘That is the real complaint.’

“4. ‘He does not belong to the class that would abrogate all laws for a day of rest.’

“*Question.*—It is presumed that human laws only are here referred to, *therefore* do you believe in the rightfulness of human laws enforcing a day of weekly rest? or do you indeed believe that all human laws enforcing a day of rest ought to be abrogated?

“*Answer.*—‘I believe all laws enforcing a day of rest ought to be abolished.’

“5. ‘He professes the sanctifying influence of the fourth commandment, the literal observance of which by himself

and all men is the distinguishing demand of his own peculiar sect.'

"*Question.*—(1.) Is it the distinguishing or any other kind of demand, of yourself, that the literal or any other observance of the fourth commandment shall be enforced upon yourself or anybody else by any form of human law?

"*Answer.*—'No, it is not.'

"(2.) To the best of your knowledge and belief, is any such thing the distinguishing or any other kind of demand of your 'own peculiar sect'?

"*Answer.*—'So far as my knowledge goes, it is not. And I don't believe it ever was in any case.'

"Yours truly,

"(Signed) R. M. KING."¹

As for the Seventh-day Adventists, as a denomination, or a "sect," or a "peculiar sect," there is something to be said also.

The Seventh-day Adventists have a record upon this subject, which is plain and unmistakable. Nor is it merely a record in the common acceptation of the term. It is a *public* record—public, too, in the sense that it is a part of the record of the Senate of the United States. December 13, 1888, the United States Senate Committee on Education and Labor gave a hearing upon the bill for a national Sunday law, which had been introduced in the Senate by Senator Blair, Chairman of this Committee. At that hearing the Seventh-day Adventists were officially represented. In the argument that was there made by them in the person of their official representative, this very point was brought out clearly and distinctly more than once, and we here present their position as stated in that argument, and as since published by themselves, and which has thus been made open to all who have a mind to read upon the subject. We quote:—

¹ By a singular coincidence the same number of the *American Sentinel* in which this matter was first printed—Nov. 19, 1891—also announced the death of Mr. King. He died November 10, 1891.

"*Senator Blair.*—Would it answer your objection in that regard, if, instead of saying 'the Lord's day,' we should say 'Sunday'?"

"*Mr. Jones.*—No, sir; because the underlying principle, the sole basis, of Sunday is ecclesiastical, and legislation in regard to it is ecclesiastical legislation." I shall come more fully to the question you ask presently.

"Now, do not misunderstand us on this point. We are Seventh-day Adventists; but if this bill were in favor of enforcing the observance of the seventh day as the Lord's day, we would *oppose it just as much as we oppose it as it is now*, for the reason that civil government has nothing to do with *what* we owe to God, or whether we owe *anything* or not, or whether we *pay* it or not. . . . Therefore, we say that if this bill were framed in behalf of the real Sabbath of the Lord, the seventh day, the day which we observe,—if this bill proposed to promote its observance, or to compel men to do no work upon that day,—*we would oppose it just as strongly as we oppose it now*; and I would stand here at this table and argue precisely as I am arguing against this, and upon the same principle—the principle established by Jesus Christ, that with that which is God's *the civil government never can of right have anything to do*. That duty rests solely between man and God; and if any man does not render it to God, he is responsible only to God, and not to any man, nor to any organization or assembly of men, for his failure or refusal to render it to God. And any power that undertakes to punish any man for his failure or refusal to render to God what is God's, puts itself in the place of God. Any government which attempts it, sets itself against the word of Christ, and is therefore antichristian. This Sunday bill proposes to have this Government do just that thing, and therefore I say, without any reflection upon the author of the bill, this national Sunday bill which is under discussion here to-day is antichristian. But in saying this I am not singling out this contemplated law as worse than all other Sunday laws in the world. There never was a Sunday law that was not antichristian, and there never can be one that will not be antichristian.

"*Senator Blair.*—You oppose all the Sunday laws of the country, then?"

"*Mr. Jones.*—Yes, sir.

"*Senator Blair.*—You are against all Sunday laws?"

“*Mr. Jones.*—Yes, sir ; we are against every Sunday law that was ever made in this world, from the first enacted by Constantine to this one now proposed ; *and we would be equally against a Sabbath law if it were proposed ;* for that would be antichristian, too.

“*Senator Blair.*—State and national, alike ?

“*Mr. Jones.*—State and national, sir.”

Again : —

“*Senator Blair.* — In other words, you take the ground that for the good of society, irrespective of the religious aspect of the question, society may not require abstinence from labor on the Sabbath, if it disturbs others ?

“*Mr. Jones.* — As to its disturbing others, I have proved that it does not. The body of your question states my position exactly.

“*Senator Blair.* — You are logical all the way through, that there shall be no Sabbath.

Again : —

“*Senator Blair.* — I do not see, from what you are stating, but that Christ recognized an existing law, and that it is continuing at the present time. You say that it is one day, and they say that it is another.

“*Mr. Jones.* — But they are after a law to enforce the observance of the first day of the week as the Lord’s day, when they confess that the Lord never gave any command in regard to it. The commandment which God gave says that the ‘seventh day is the Sabbath.’

“*Senator Blair.* — Is it still the Sabbath ?

“*Mr. Jones.* — Certainly, and we keep it ; *but we deny the right of any civil government to compel any man either to keep it or not to keep it.*

“*Senator Blair.* — The civil government of the Jews compelled its observance.

“*Mr. Jones.* — That was a theocracy.”

Again : —

“*Senator Blair.* — You are entirely logical, because you say there should be no Sunday legislation by State or nation either.

"*Mr. Jones.* — Of course I am logical, all the way through. I want to show you the wicked principle upon which this whole system is founded, and the reason I do this is because the last step is involved in the first one. If you allow this principle and this movement to take the first step, those who get the power will see in the end that *they* take the last step. That is the danger."

Again : —

"*Senator Blair.* — Your proposition is to strike out the Sabbath from the Constitution and condition of society in these modern times ?

"*Mr. Jones.* — No, sir.

"*Senator Blair.* — Certainly, *so far as its existence and enactment and enforcement by law are concerned.*

"*Mr. Jones.* — Yes, sir, by civil law."

Again : —

"*Senator Blair.* — You would abolish the Sabbath anyway ?

"*Mr. Jones.* — Yes, in the civil law.

"*Senator Blair.* — You would abolish any Sabbath from human practice which shall be in the form of law, unless the individual here and there sees fit to observe it ?

"*Mr. Jones.* — Certainly ; that is a matter between man and his God."

There was a proposition made to insert an exemption clause, and upon this point we have the following statements : —

"*Senator Blair.* — You care not whether it is put in or not ?

"*Mr. Jones.* — *There is no right whatever in the legislation ; and we will never accept an exemption clause as an equivalent to our opposition to the law. It is not to obtain relief for ourselves that we oppose the law. It is the principle of the whole subject of legislation to which we object ; and an exemption clause would not modify our objection in the least.*

"*Senator Blair.* — You differ from Dr. Lewis ?

"*Mr. Jones.* — Yes, sir ; we will never accept an exemption clause, as tending in the least to modify our opposition

to the law. *We as firmly and fully deny the right of the State to legislate upon the subject with an exemption clause as without it. . . .*

“*Senator Blair.*— You object to it?

“*Mr. Jones.*— We object to the whole principle of the proposed legislation. We go to the root of the matter, and deny the right of Congress to enact it.

“*Senator Blair.*— You say that the proposed exemption does not make it any better?

“*Mr. Jones.*— Not a bit.”

Nor is this the only record in the case. Feb. 18, 1890, the House Committee on District of Columbia gave a hearing on a Sunday bill introduced by Hon. W. C. P. Breckinridge, for the District of Columbia. The Seventh-day Adventists of the District of Columbia were heard before this Committee. From the verbatim report of the speeches made by them that day, we quote again :—

“*Mr. Corliss.*—Mr. Chairman : I have little time for preliminaries, and none for personalities. I have, however, some arguments to present against the bill under consideration, merely pausing to say that I thank the last speaker [Mr. Crafts] for his confession of lack of argument in support of the bill, which he has shown in the fact of his having indulged in personalities the most of the time allowed to him. I can use my time to better advantage. I will use only a half hour, then yield a half hour to Mr. Jones, of New York. Mr. McKee, also, has a brief, which he will present for consideration.

“*The Chairman.*— We desire to know in whose behalf you appear?

“*Mr. Corliss.*— I reside in this city, sir, with my family. I speak in behalf of the Seventh-day Adventist church in Washington, of which I am, at present, the pastor ; as a citizen of the United States ; and as a resident of this District. I appear, *not* as has been affirmed before you, *to speak in behalf of a Saturday Sabbath.* Far from it, Gentlemen of the Committee. *If this bill, No. 3854, were to have incorporated into it, instead of ‘Sunday, or the first day of the week,’ the words, ‘Saturday, or the seventh day of the week,’ there is no one who would oppose it stronger than I.* And I would

oppose it just as strongly as I do in its present form, for the reason that it is not sectarianism that calls us here to-day; but we see in this bill a principle of religious legislation that is dangerous, not to our liberties in particular, but to the liberties of the nation. For, as you perceive, this bill has an exemption clause providing that 'this Act shall not be construed to apply to any person or persons who conscientiously believe in and observe another day of the week than Sunday as a day of rest.' *This fact gives us more courage to oppose the measure, because we know that all fair-minded people will be able to see that our opposition arises from a broader and higher motive than that of self-interest.*"

Again : —

"*Mr. Corliss.*— Mr. Jones has been called here by myself, as pastor of the Seventh-day Adventist church here in Washington. I have called that church together, and by a rising vote they have requested Mr. Jones to appear here on their behalf. Mr. A. T. Jones, of New York City, Editor of the *American Sentinel*.

"*Mr. Jones.*— Mr. Chairman, and Gentlemen of the Committee : I shall devote most of my remarks to the subject which was made so much of by the gentleman who spoke last on the other side [Mr. Crafts], namely, the Seventh-day Adventists, and their opposition to this legislation. . . .

"Congress can make no law upon the subject of religion without interfering with the free exercise thereof. *Therefore the Seventh-day Adventists, while observing Saturday, would most strenuously oppose any legislation proposing to enforce the observance of that day. That would be an interference with the free exercise of our right to keep that day as the Sabbath. Therefore we come to you to plead for protection. We do not ask you to protect us by legislation. We do not ask you to legislate in favor of Saturday, not even to the extent of an exemption clause. We ask you to protect us by refusing to give to these men their coveted power to invade our rights. We appeal to you for protection in our constitutional rights as well as our rights of conscience. . . .*

"Gentlemen, It is time for all the people to declare, *as the Seventh-day Adventists decidedly do*, that this nation is, and of right ought to be, FREE AND INDEPENDENT OF ALL ECCLESIASTICAL OR RELIGIOUS INTERFERENCE, CONNECTION, OR CONTROL."

If any further evidence be required, here it is : —

“ 43 BOND STREET, NEW YORK CITY, Oct. 6, 1891.

‘ Eld. O. A. Olsen, .

“ Pres. Gen’l Conf. S. D. Adventists,

“ Battle Creek, Mich.

“ DEAR SIR,— In his decision in the case of R. M. King, or rather in his *dictum* appended to that decision, his Honor, Judge E. S. Hammond, of the United States Circuit Court, makes certain statements in regard to the beliefs and wishes of the ‘peculiar sect’ with which Mr. King is connected religiously,— the Seventh-day Adventists. From my understanding of the views held by this people on this question, I doubt the correctness of the Judge’s statements. Therefore I send herewith a copy of the statements, with questions appended, to which I respectfully request that you will write an answer as fully as you may deem proper. By so doing, you will greatly oblige,

Truly yours,

“ ALONZO T. JONES,

“ *Editor American Sentinel.*”

The statements of the Court are as follows : —

“(1.) ‘ His [King’s] own religious feeling or fanaticism [is] that the seventh day of the week, instead of the first, should be set apart by the public for the day of public rest and religious practices. *This is what he really believes and wishes, he and his sect, and not* that each individual shall select his own day of public rest and his own day of labor.’

“ *Question.*— Is this true?

“ *Answer.*— I have been personally connected with the Seventh-day Adventist denomination for more than thirty years, and I can freely say that no such belief or wish is entertained by this people. Our belief and wish is directly the opposite of that stated by the Judge.

“(2.) ‘ He professes the sanctifying influence of the fourth commandment, the literal observance of which by himself and all men *is the distinguishing demand of his own peculiar sect.*’

“ *Question.*— Is it the distinguishing or any other kind of demand of the Seventh-day Adventist body, that the literal or any other observance of the fourth commandment shall be enforced upon themselves or anybody else, by any form of human laws?

"*Answer.*—It is not. We do *teach*, not *demand*, that ourselves and ail men should observe the fourth commandment literally, as God gave it. But this observance must be the free choice of the individual, according to the dictates of his own conscience. (Signed) O. A. OLSEN,

"*Pres. Gen'l Conf. of the Seventh-day Adventists.*
 "Austell, Ga., Oct. 12, 1891."

Thus by evidence which cannot be questioned, it is demonstrated that the statements of Judge Hammond as to the belief and wish of the Seventh-day Adventists, are false in every particular. Indeed, if the points made in the argument before the United States Senate Committee, Dec. 13, 1888, had never been made till this 19th day of November, 1891, and were now publicly made for the first time, in direct and intentional refutation of the statements of the Judge, it would not be possible to make them more flatly contradictory to those statements than they are.

But as these points have been matter of public national record, and matter of knowledge to thousands upon thousands of the people, for nearly three years before Judge Hammond set forth his *dictum*, this *fact* leaves him—a judge of a court of the United States—in the unenviable predicament of having, upon a simple question of fact, officially published to the world a series of statements which are not only untrue in themselves, but which public and official records *show* to be untrue, and which thousands upon thousands of the people *know* to be untrue.

IS THIS A PREROGATIVE OF THE UNITED STATES COURTS ?

The question, however, as to whether these statements are true or false, is a very small matter compared with the *principle* which is involved, and which underlies this action of the Judge : that is, the assumption of the prerogative of defining and passing judgment upon the beliefs and wishes of citizens of the United States.

For convenience, we insert again the passage referred to, italicizing the words which touch the principles : —

“The petitioner cannot shelter himself just yet behind the doctrine of religious freedom in defying the existence of a law and its application to him, which is distasteful to his own religious feeling or *fanaticism*, that the seventh day of the week, instead of the first, should be set apart by the public for the day of public rest and religious practices. *That is what he really believes and wishes, he and his sect*, and *not* that each individual shall select his own day of public rest, and his own day of labor. His *real* complaint is, that his adversaries on this point have the advantage of usage and custom, and the laws founded on that usage and custom, *not* that religious freedom has been denied to him. *He does not belong* to the class that would abrogate all laws for a day of rest, because the day of rest is useful to religion, and aids in maintaining its churches ; for none more than he professes the sanctifying influence of the fourth commandment, the literal observance of which, by himself and all men, is the distinguishing demand of his own peculiar sect.”

By this it is evident that the Judge has presumed authoritatively to define for Mr. King and the people with whom he is religiously connected, just what their “religious feeling” is, and what they really believe and wish. And it is evident that the Judge considers himself capable of defining for them what their religious feeling is and what they really believe and wish, better than they can do it for themselves ; because that which he declares to be their religious feeling

and what they really believe and wish, is directly contrary to what they themselves had formerly and officially declared upon the same points precisely.

Nor does the Judge stop here. Having officially declared for them what their religious feeling is, and what they really believe and wish, and so having this point judicially settled, he proceeds to judge their motives, and to declare them "disingenuous,"—"not noble or high-toned; mean, unworthy . . . unworthily or meanly artful," in their "demand for religious freedom." And not content with this, he must needs apply to the religious feeling which he has falsely attributed to them, the opprobrious epithet of "fanaticism."

This is a singular proceeding for a court of the United States. It strongly reminds us of certain court proceedings in times past, which are worth recalling in this connection. There are many of them, but two will suffice for this occasion. Jan. 18, 1573, a certain Mr. White, a Puritan, and "a substantial citizen of London, who had been fined and tossed from one prison to another, contrary to law and justice [yet all in "due process of law."—A. T. J.], only for not frequenting his parish church," and for renouncing the Church of England forms and ceremonies, was prosecuted before an English court, the Lord Chief Justice presiding, who was assisted by the Master of the Rolls, the Master of Requests, a Mr. Gerard, the Dean of Westminster, the Sheriff of London, and the Clerk of the Peace. The record is in part as follows:—

"*Lord Chief Justice.*—Who is this?

"*White.*—White, an't please your honor.

"*L. C. J.*—White! as black as the devil!

"*White.*—Not so, my lord; one of God's children. . . .

"*Master of Requests.*—What scriptures have you to ground your conscience against these garments?

"*White.*—The whole Scriptures are for destroying idolatry, and everything that belongs to it.

"*M. Req.*—These things never served to idolatry.

“ *White.*— Shough ! they are the same which were heretofore used to that purpose.

“ *M. Req.*— Where is the place where these are forbidden ?

“ *White.*— In Deuteronomy and other places ; . . . and God by Isaiah commandeth us not to pollute ourselves with the garments of the image. . . .

“ *Master of the Rolls.*— These are no part of idolatry, *but are commanded by the prince for civil order* ; and if you will not be ordered, you show yourself disobedient to the laws.

“ *White.*— I would not willingly disobey any law, only I would avoid those things that are not warranted by the word of God.

“ *M. Req.*— These things are by an Act of Parliament, and *in disobeying the laws of your country*, you disobey God.

“ *White.*— I do it not of contempt, but of conscience ; in all other things I am an obedient subject.

“ *L. C. J.*— Thou art a contemptuous fellow, and will obey no laws.

“ *White.*— Not so, my lord : I do and will obey laws, . . . refusing but a ceremony out of conscience ; . . . and I rest still a true subject.

“ *L. C. J.*— The Queen’s majesty was overseen not to make you of her council, to make laws and orders for religion.

“ *White.*— Not so, my lord ; I am to obey laws warranted by God’s word.

“ *L. C. J.*— Do the Queen’s laws command anything against God’s word.

“ *White.*— I do not so say, my lord.

“ *L. C. J.*— Yes, marry, do you, and there I will hold you.

“ *White.*— Only God and his laws are absolutely perfect ; all men and their laws may err.

“ *L. C. J.*— This is one of Shaw’s darlings. I tell thee what, I will not say anything of affection, for I know thee not, saving by this occasion ; thou art the wickedest and most contemptuous person that has come before me since I sat in this commission.

“ *White.*— Not so, my lord ; my conscience witnesseth otherwise. . . .

“ *Dean of Westminster.*— You will not, then, be obedient to the Queen’s commands ?

"*White.*—I would only avoid those things which have no warrant in the word of God; that are neither decent nor edifying, but are flatly contrary. . . .

"*L. C. J.*—You would have no laws.

"*White.*—If there were no laws, I would live a Christian and do no wrong; if I received any, so it were.

"*L. C. J.*—Thou art a rebel.

"*White.*—Not so, my lord: a true subject.

"*L. C. J.*—Yes, I swear by God, thou art a very rebel; for thou wouldst draw thy sword, and lift up thy hand against thy prince, if time served.

"*White.*—My lord, I thank God my heart standeth right toward God and my prince; *and God will not condemn, though your honor hath so judged.*

"*L. C. J.*—Take him away.

"*White.*—I would speak a word which I am sure will offend, and yet I must speak it; I heard the name of God taken in vain; if I had done it, it had been a greater offense there than that which I stand here for.

"*Mr. Gerard.*—White, White, you don't behave yourself well.

"*White.*—I pray your worship show me wherein, and I will beg pardon and amend it.

"*L. C. J.*—I may swear in a matter of charity. . . .

"*White.*—Pray, my lord, let me have justice. I am unjustly committed; I desire a copy of my presentment.

"*L. C. J.*—You shall have your head from your shoulders. Have him to the Gatehouse.

"*White.*—I pray you to commit me to some prison in London, that I may be near my house.

"*L. C. J.*—No, sir, you shall go thither.

"*White.*—I have paid fines and fees in other prisons; send me not where I shall pay them over again.

"*L. C. J.*—Yes, marry, shall you; this is your glory.

"*White.*—I desire no such glory.

"*L. C. J.*—It will cost you twenty pounds, I warrant you, before you come out.

"*White.*—God's will be done." — *Neal's "History of the Puritans," Vol. I, chap. V.*

When the Puritans of New England had established their theocracy, they inflicted the same things upon dissenters

there that the Government of England had inflicted upon their religious kindred in England. A single scene from their judicial (?) procedure will serve to illustrate the point before us. It is from the condemnation—we do not say the trial—of Mrs. Hutchinson.

Anne Hutchinson was an honorable woman, a Christian. She believed in the abiding presence of the Holy Spirit, according to the word of Christ. She believed also the promise of Christ, that the Spirit will guide the Christian, especially in the understanding of the Scriptures. She accordingly thought that “the Holy Ghost dwells in a justified person,” and that it is the duty of Christians to “follow the bidding of the Holy Spirit.” And as “there was nothing which the orthodox Puritan so steadfastly abhorred as the anarchical pretense of living by the aid of a supernatural light,” she was denounced as “weakening the hands and hearts of the people toward the ministers,” and as being “like Roger Williams or worse.”

She had said that there was a broad difference between the preaching of Mr. Cotton and that of the rest of the ministers, that they did not preach the covenant of grace as clearly as did Mr. Cotton, and that they were not able ministers of the New Testament. This set all the preachers against her, except Cotton, and as the governmental machinery was but the tool of the preachers, she was condemned and prosecuted.

The court was large. The governor, John Winthrop, was presiding judge and prosecuting attorney, both in one. He upbraided her with having spoken things prejudicial to the honor of the ministers, and other things of like enormity. In her defense she had said that she expected to be delivered out of the hands of the court, and referred to some passages in the book of Daniel.

“*The Governor.*—Daniel was delivered by a miracle. Do you think to be delivered so too?

"*Mrs. H.*—I do here speak it before the Court. I look that the Lord should deliver me by his providence.

"*Deputy-Governor.*—I desire Mr. Cotton to tell us whether you do approve of Mrs. Hutchinson's revelations as she hath laid them down.

"*Mr. Cotton.*—I know not whether I understand her; but this I say, If she doth expect a deliverance in a way of providence, then I cannot deny it.

"*Governor.*—I see a marvelous providence of God to bring things to this pass. . . . God by a providence hath answered our desires, and made her lay open herself and the ground of all these disturbances to be by revelations.

"*All the Court.*—We all consent with you.

"*Gov.*—Ey! it is the most desperate enthusiasm in the world.

"*Mr. Endicott.*—I speak in reference to Mr. Cotton. . . . Whether do you witness for her or against her?

"*Mr. Cotton.*—This is that I said, sir, and my answer is plain, that if she doth look for deliverance from the hand of God by his providence, and the revelation be . . . according to a word [of Scripture], then I cannot deny it.

"*Mr. Endicott.*—You give me satisfaction.

"*Deputy-Governor.*—No, no; he gives me none at all.

"*Mr. Cotton.*—I pray, sir, give me leave to express myself. In the sense that she speaks, I dare not bear witness against her.

"*Mr. Nowell.*—I think it a devilish delusion.

"*Governor.*—Of all the revelations that ever I heard of, I never read the like ground laid as is for this. The enthusiasts and Anabaptists had never the like.

"*Mr. Peters.*—I can say the same; . . . and I think that is very disputable which our Brother Cotton hath spoken.

"*Governor.*—I am persuaded that the revelation she brings forth is delusion.

"*All the Court* (except two or three).—We all believe it; we all believe it. . . .

"*Governor.*—The Court hath already declared themselves satisfied . . . concerning the troublesomeness of her spirit and the danger of her course among us, which is not to be suffered. Therefore if it be the mind of the Court that Mrs. Hutchinson . . . shall be banished out of our liberties,

and imprisoned till she be sent away, let them hold up their hands.

“All but three responded.

“*Governor*.—Those contrary-minded hold up yours.

“Two only responded.

“*Governor*.—Mrs. Hutchinson, the sentence of the Court you hear is that you are banished from out of our jurisdiction as being a woman not fit for our society, and are to be imprisoned till the Court shall send you away.

“*Mrs. H.*—I desire to know wherefore I am banished.

“*Governor*.—Say no more; the Court knows wherefore, and is satisfied.”—“*Emancipation of Massachusetts*,” pp. 72-75; “*The Two Republics*,” pp. 612-618.

Hitherto it has been supposed by the American people that we had been delivered from such judicial procedure as is represented in these two court scenes, and that citizens of the United States were free from attacks and abuse from the judicial bench on account of their religious beliefs and feelings. But when we are confronted with the fact that from a judicial bench of the United States thousands of citizens of the United States are falsely charged, to their reproach, and denounced as “disingenuous,” and branded with the epithet of “fanaticism,” solely on account of their “religious feelings,” and their *beliefs* and *wishes* with respect to religious observances, then it is certainly time for the people of the United States to look about them, and inquire whether the rights and liberties bequeathed to us by our fathers are indeed all a delusion and a snare.

Of course, this is all consistent with the Judge's views of the relationship of religion and the civil power, and the prerogatives of those religionists who can secure control of legislation, and thus enforce upon all their own religious beliefs and observances. But in this, as in every other point of his *dictum*, the Judge's ideas become a court of the Dark Ages more than any court of the nineteenth century; and a country dominated by papal principles, instead of one dominated

by the principles of the Declaration of Independence, and the United States Constitution.

If the jurisdiction of the courts of the United States stands indeed in things religious as well as things civil, and if the judges of those courts really sit in the place of God and enjoy the infallibility that belongs to such position, then it is proper enough, of course, that they should exercise that prerogative in deciding for individuals and sects what their religious beliefs and wishes really are, and whether a religious feeling is fanaticism or not. But if such be not the jurisdiction of the courts nor the position of the judges, then they are entirely out of place when they assume to themselves such jurisdiction and exercise such prerogatives.

And that such is not the jurisdiction of any court of the United States, nor the position of any judge thereof, is evident from every principle of the Declaration of Independence and of the Constitution of the United States, and also from the whole history of the formation of that Constitution.

We may here well cite a passage from a decision of the Supreme Court of California, in a case involving the identical question and principle that was before the Circuit Court of the United States for the Western District of Tennessee. The principles set forth by the California Court are fully as applicable to the United States as they are to that State. We are sure that upon a comparison between this extract and that from Judge Hammond at the beginning of this division, no reader will have the slightest difficulty in deciding which has the true ring, or which sets forth the true American doctrine. The California Court said : —

“The protection of the Constitution extends to every individual or to none. It is the individual that is to be protected. The principle is the same, whether the many or the few are concerned. The Constitution did not mean to inquire how many or how few would profess or not profess this or that particular religion. If there be but a single individ-

ual in the State who professes a particular faith, he is as much within the sacred protection of the Constitution as if he agreed with the great majority of his fellow-citizens.

“We cannot, therefore, inquire into the particular views of the petitioner, or any other individual. . . . The Constitution protects the freedom of religious *profession* and worship, without regard to the sincerity or insincerity of the worshipers. We could not inquire into the fact whether the individual professing to hold a particular day as his Sabbath was sincere or otherwise. He has the right to profess and worship as he pleases, without having his motives inquired into. His motives in exercising a constitutional privilege are matters too sacred for judicial scrutiny. Every citizen has the undoubted right to vote and worship as he pleases, without having his motives impeached in any tribunal of the State.”— *Cal. Rep. 9 Lee, 515.*

And let all the people forever say, Amen.

WHAT HAS GOD ENJOINED ?

But the Judge does not confine himself, in his exercise of the divine prerogative, merely to deciding for citizens of the United States what they really believe and wish religiously, and that they are disingenuous, and whether their religious feelings are fanaticism or not. He proceeds even to the point of judicially declaring *what God has enjoined*. He reaches this point in the following words : —

“It is not necessary to maintain that to violate the Sunday observance custom [the act] shall be of itself immoral, to make it criminal in the eyes of the law. It may be harmless in itself (because, as petitioner believes, God has not set apart that day for rest and holiness) to work on Sunday ; and yet, *if man has set it apart*, in due form, by his law, for rest, *it must be obeyed as man’s law if not as God’s law* ; and it is just as evil to violate such a law, in the eyes of the world, as one sanctioned by God — I mean just as criminal in law. . . . Or to express it otherwise, there is in one sense

a certain immorality in refusing obedience to the laws of one's country, subjection to which *God himself has enjoined upon us.*"

As we are not yet convinced that the Judge has rightfully assumed the prerogative of officially declaring what the will of God is, we desire to know how he knows that God has enjoined subjection to the laws of one's country, in the sense conveyed in this statement and this *dictum* throughout? — that is, that we must be in unqualified subjection to whatever laws men may at any time and in any wise enact, even though they be such laws as may be demanded by "a sort of factitious advantage" of a set of religionists, "in spite of the clamor for religious freedom, and the progress that has been made in the absolute separation of Church and State."

Everybody who has ever read the Bible knows that God has never enjoined subjection to the laws or governments of men in any such sense as that. It is true that the powers which be are ordained of God; but it is also true that these powers are not ordained to act in the place of God. He who has ordained these powers, and set over them "the basest of men" (Dan 4 : 17), has also set a limit to their jurisdiction.

Only the things that are Cæsar's are to be rendered to Cæsar. With anything that pertains to God, government can never have anything to do. The limit of governmental jurisdiction is the citizen's relation to his fellow-citizens or to the State. This jurisdiction is to be exercised in maintaining "civil order and peace." So long as a man conducts himself peaceably and pays his taxes, with him the State can have nothing to do. No State, therefore, can ever of right prohibit anything *which is harmless in itself*. To attempt to do so is the first step toward a despotism.

The Bible *principles* of the limits of State jurisdiction as regards religion, need not here be discussed. God has given *practical examples*, which not only illustrate the principles, but which so flatly and positively contradict the

theory propounded by Judge Hammond, that it will be necessary only to note some of them in this connection. Besides, as the Judge has taken upon him to declare for citizens of the United States just what God has enjoined in this respect, it is perfectly in order for us to read for ourselves what, in practice as well as in principle, God has *really* enjoined.

The king of Babylon once set up a great image, and called a grand general assembly of the people to celebrate the dedication of it. On the set day all were commanded to bow down and worship the golden image. There were three Jews who flatly refused. By "a sort of factitious advantage" the worshipers of the image had "the aid of the civil law, and adhered to that advantage with great tenacity, in spite of the clamor for religious freedom." The image-worshipers therefore insisted that these three "non-conformists" should be conformists, as they were "required, every one of them, to comply" with this certain ceremony.

The dissenters refused to comply. By the image-worshipers this refusal was held to be a defiant setting up of the dissenters' "non-observance by an ostentatious display of their disrespect for the feelings or prejudices of others." And as the dissenters were held to be "ostentatiously" refusing "for the purpose of emphasizing their distaste for or their disbelief in the custom" of image-worship, they were "made to suffer for their defiance by persecutions, if you call them so, on the part of the great majority" of image-worshipers, who would compel them to worship when *they* worshiped.

The penalty of the law was that whoever should refuse to worship the image, should be cast into a burning fiery furnace. As the image-worshipers were very tenacious of their "sort of factitious advantage," they prosecuted the three non-conformists. And what made the image-worshipers yet more tenacious of their "sort of factitious advantage," was

the fact that the dissenters not only refused to conform, but maintained the inalienable right to dissent from every phase of the proposed custom.

When prosecuted, the non-conformists in open court refused to conform, and asserted their right to refuse. The judge declared to them distinctly the alternative, "If . . . ye fall down and worship the image, . . . well ; but if ye worship not, ye shall be cast the same hour into the midst of a burning fiery furnace ; and who is that God that shall deliver you out of my hands ?"

The three non-conformists replied to the judge, "We are not careful to answer thee in this matter. If it be so, our God whom we serve is able to deliver us from the burning fiery furnace, and he will deliver us out of thine hand. . . . But if not, be it known unto thee . . . that we will not serve thy gods, nor worship the golden image which thou hast set up."

The judge was naturally inclined to favor the image-worshippers, and as public opinion was clearly on their side, too, he was not willing to admit that the prisoners could "shelter themselves just yet behind the doctrines of religious freedom in defying the existence of a law and its application to them which was distasteful to their own religious feeling or fanaticism," that it was their right to worship according to the dictates of their own consciences. He held that as the law had commanded "in due form" the observance of this rite, "it must be obeyed as man's law if not as God's law." This, too, the more especially, as the Lord had plainly told them to "serve the king of Babylon, and live ;" and to "seek the peace of the city whither they had been carried away captive." Jer. 26 : 17 ; 29 : 7.

It is true the thing which the dissenters were doing was "harmless in itself," but that could not be allowed any weight, because the law commanded it, and therefore it was held that there was a "certain immorality in refusing obedi-

ence to the laws of one's country, subjection to which God himself had enjoined." Therefore, "full of fury" and with "the form of his visage changed," the judge commanded that the furnace should be heated seven times hotter than usual, and that the prisoners should be "remanded" to its fiery embraces.

The judge was the king himself, and no sooner was his judgment executed, and the men cast into the flames, than he was more astonished than ever before in his life. He "rose up in haste, and spake, and said unto his counselors, Did not we cast three men bound into the midst of the fire? They answered, and said unto the king, True, O king. He answered and said, Lo, I see *four* men *loose*, walking in the midst of the fire, and they have no hurt; and the form of the fourth is like the Son of God." Then the king called to the non-conformists, "Ye servants of the most high God, come forth, and come hither."

The king had learned something. He spake and said: "Blessed be the God of Shadrach, Meshach, and Abednego, who hath sent his angel, and delivered his servants that trusted in him, *and have changed the king's word*, and yielded their bodies, *that they might not serve nor worship any god EXCEPT THEIR OWN GOD.*"

The king had learned that God had not enjoined subjection to the laws of the country in anything that pertained to the rights of the individual to worship. He had learned that when the laws of the country prohibit that which is harmless in itself, and thus interfere with the right of the individual to enjoy his God-given rights, then it is the law that is wrong, and not the action of the person who disregards the law; and that therefore the proper thing to do is to *change the law*, not to punish the harmless individual.

Yes, King Nebuchadnezzar, heathen though he was, learned that much nearly twenty-five hundred years ago. And when the Declaration of Independence and the Constitutions of

the United States and of the several States, have embodied for this whole nation this same doctrine, in the words, "All men are created equal, and are endowed by their Creator with certain unalienable rights, among which are life, liberty, and the pursuit of happiness," and, "No human power can *in any case whatever* control or interfere with the rights of conscience," it is scarcely to the credit of a judge of a court of the United States that he should be further behind the times than was the heathen Nebuchadnezzar nearly twenty-five hundred years ago.

Nor is this the only example in illustration of the principle. About sixty-five years later, in the reign of Darius the Mede, some arrogant religionists again, by "a sort of factitious advantage, secured the aid of the civil law." Consequently, again a thing harmless in itself was forbidden by law, and man's law presumed to dictate as to when and how men should worship. There was a single non-conformist who again "ostentatiously displayed his distaste for and his disbelief in the custom" sought to be enforced by law. He too was made to suffer for his defiance, "by persecutions on the part of the great majority." He was cast into a den of lions. But the next morning he was able to announce, "*My God hath sent his angel, and hath shut the lions' mouths, that they have not hurt me; forasmuch as before him innocency was found in me; and also before thee, O king, have I done no hurt.*"

Again God declared the man innocent who disregards any law touching religious exercises, or prohibiting in such connection that which is harmless in itself. Again God demonstrated that he has not enjoined subjection to the laws of one's country in any such things as these, or in any such sense as this.

About five hundred and sixty years afterward occurred another example illustrating the same thing. Some religionists, by "a sort of factitious advantage," had the aid of the

civil law, and “adhered to that advantage with great tenacity, in spite of the great clamor for religious freedom.” “Then the high-priest rose up, and all they that were with him, . . . and were filled with indignation, and laid their hands on the apostles, and put them in the common prison. *But the angel of the Lord by night opened the prison doors, and brought them forth, and said, Go, stand and speak in the temple to the people all the words of this life.*” Acts 5 : 17-20.

Thus again it is shown, not only that God never enjoined any such thing as Judge Hammond says he has, in the sense there argued, but that he has positively enjoined the opposite. In short, by these evidences, and volumes more that might be produced, it is demonstrated that the Judge’s assumption of the prerogative of officially declaring what God has enjoined, is about as wide of the mark as is his like attempt authoritatively to declare what the “religious feelings,” “beliefs, and wishes” of the Seventh-day Adventists “really” are.

But the strangest and most incongruous thing about the whole procedure is that a judge of any court in the United States should presume to do it at all.

THE RIGHTS OF THE PEOPLE.

In our study of this opinion we have found that in the whole *dictum* there is nowhere any recognition whatever of any such thing as the rights of the individual conscience, nor any right of the individual to choose for himself in religion or religious observances. Everything must be submitted to the dictates of the majority, it matters not what that majority may declare or demand. In short, the will of the majority is made absolute in all things. The State is made supreme

and absolute, and the individual is completely swallowed up and absorbed therein. The majority alone have rights, and these are bestowed by the State.

This point was merely referred to in the quotation last made above. It is worthy of fuller examination, therefore we quote : —

“The crime is in doing the thing forbidden by law, harmless though it be in itself. Therefore, all that part of the argument that it is not hurtful in itself to work on Sunday, apart from the religious sanctity of the day, is beside the question ; for it may be that the courts would hold that repeated repetitions of a violation of law forbidding even a harmless thing, could be a nuisance as tending to a breach of the peace. . . . That is to say, a nuisance might be predicated of an act harmless in itself, if the will of the majority had lawfully forbidden the act, and rebellion against that will would be the *gravamen* of the offense.”

Now in view of this statement, please read carefully the following : —

“We hold these truths to be self-evident, that all men are created equal ; that they are endowed by their Creator with certain *unalienable rights* ; that *among these* are life, liberty, and the *pursuit of happiness*. That *to secure these rights*, governments are instituted among men, deriving their just powers from the consent of the governed ; that whenever any form of government becomes destructive of these ends, it is *the right of the people* to alter or abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as *to them* shall seem most likely to effect their safety and happiness.”

In declaring that governments derive their just powers from the consent of the governed, there is declared not only the *sovereignty* of the people, but the entire *capability* of the people. And in declaring the equal and inalienable right of all men to life, liberty, and the pursuit of happiness, there is declared the entire capability of every man to enjoy life and liberty, and to pursue happiness, *as he may think best*, and as

he may choose for himself, so long as he *interferes with no other man's equal right* to the enjoyment of life, liberty, and the pursuit of happiness. This is the only limit that ever can rightly be set to the exercise of this right, and this limit is set in the very Declaration itself. Indeed, the Declaration itself presupposes that men are men indeed, and that as such they are fully capable of deciding for themselves as to what is best for their happiness, and how they shall pursue it.

No man can ever interfere with any other person's right to the enjoyment of life, liberty, and the pursuit of happiness, by doing that which is harmless in itself. Therefore no government, no law, can ever of right forbid the doing of anything that is harmless in itself.

Governments are not formed to interfere with or to restrict inalienable rights; but to *secure*, to guard, to make firm, the enjoyment thereof. These rights men already possess as men, by virtue of being men in society, and not by virtue of government. These rights were theirs before government was; they were *their own* in the essential meaning of the term. These rights men "do not hold, by any subinfeudation, but by direct homage and allegiance to the owner and Lord of all,"¹—their Creator, who has endowed them with these rights.

It is not the prerogative, because it is not the purpose, of government to put any restriction, limitation, or qualification upon these rights, but solely to *secure* them.

"For the rights of man, as man, must be understood in a sense that can admit of no single exception; for to allege an exception is the same thing as to deny the principle. We reject, therefore, with scorn, any profession of respect to the principle, which, in fact, comes to us clogged and contradicted by a petition for an exception. . . . To profess the principle and then to plead for an exception, let the plea be what it may, is to deny the principle; and it is to utter a treason against humanity. The rights of man must every-

¹ Stanley Matthews.

where all the world over, be recognized and respected.”—
*Isaac Taylor.*¹

The plea that the doing of a harmless thing, or even the repetition of it to an infinite extent, could ever tend to a breach of the peace, is most puerile, and is as despotic as it is puerile. The idea is this: You are going quietly on your way, doing something which is harmless in itself. But I see you, and I am of so splenetic, irritable, and despotic a disposition, that out of sheer wickedness I attack you. A breach of the peace has been committed; but lo, instead of punishing me for the breach of the peace, a law must be enacted *forbidding you ever again to do that harmless thing!* And this, forsooth, because it tends to a breach of the peace! You must submit to be robbed of your inalienable right, and be compelled to surrender it a tribute to the overbearing demands of my tyrannical disposition. The innocent citizen must be made a slave, and the tyrannical meddler must be clothed with power! In such a conception there is no recognition of any such thing as an inalienable right. Such an idea is the very essence of despotism. Such a government would be an unmitigated tyranny.

Therefore, let it be forever repeated, that no law can ever justly be made forbidding the doing of anything that is harmless in itself. Such a law is wrong and essentially tyrannical in itself. Such a *law* is not simply an *utterance*, but an *enactment*, of a treason against humanity. And it is no less so when formulated by judicial or parliamentary legislation than by the arbitrary decree of a despot. Such ideas of law and government have no place under the Declaration of Independence or the United States Constitution.

The jurisdiction of the State and United States Governments —

¹ Quoted by Stanly Matthews in the Case of Cincinnati School Board on Bible in the Public Schools.

“Is both derivative and limited. It is limited with regard to the co-ordinate departments; more necessarily is it limited with regard to the constituents. The preservation of a free government required not merely that the metes and bounds which separate each department of power be invariably maintained, but more especially that neither of them be suffered *to overleap the great barrier which defends the rights of the people*. The rulers who are guilty of such an encroachment, exceed the commission from which they derive their authority, and are tyrants. The people who submit to it are governed by laws made neither by themselves nor by any authority derived from them, and are slaves.” — *James Madison*.

The truth, and the *sum* of this whole discussion, is that the views propounded in the *dictum* of Judge Hammond in the King case, are all the way from one hundred to nineteen hundred years behind the times; they are as though history had never been written; they are a parody upon progress, a travesty upon justice, and are subversive of every principle of the Declaration of Independence and the United States Constitution. They would sweep away every right, either civil or religious, that is declared or secured by the Declaration and the Constitution, and would again establish the same old despotism, both civil and religious, which cursed the world for seventeen hundred years, and against which the Declaration and the Constitution are, and were intended to be, an everlasting protest.

THE LOGIC OF THE JUDGE'S POSITION.

In an unofficial communication of later date than his *dictum* in this case, Judge Hammond has gone over the same ground again, and has made some additional statements, which are of interest as well as of importance in connection with the statements which we have already noticed.

After reiterating one of the main propositions of the *dictum*,—that "the institution of Sunday, like the religion upon which it is founded, belongs to the people as a characteristic possession," that therefore religion is essentially a part of the laws, and its preservation as such "a necessity of statesmanship,"—he makes the following important admission :—

"The logic of this position may lead to a union of Church and State, undoubtedly; but it is not essential nor always useful, indeed often otherwise, to go to the end of one's logic."

In this review we have demonstrated again and again, from his own propositions, that a union of Church and State is logically inherent in the positions assumed throughout that document. It is well, therefore, for our readers to know that he sees and acknowledges the same thing himself. And from this it is perfectly proper, as well as logical, to inquire, Is it the province of a judge of a United States Court to inculcate from his official seat the doctrine of a union of Church and State in these United States? At his induction into that responsible office he took a solemn oath to support the Constitution of the United States, which, both in its principles and its specific precepts, is diametrically opposed to a union of Church and State, and to every position the logic of which would lead to a union of Church and State.

His plea, that it is not essential to go to the end of one's logic, is as puerile as is his other position that government may prohibit a thing harmless in itself to prevent "breach of the peace." It is a pitiable thing indeed when a person insists upon maintaining a position, the logic of which he is unwilling to follow to its legitimate end. But this is not all there is in this case. It would be bad enough were this so only with him as an individual. But this is not so. He occupies the place of a judge of the United States, a repre-

sentative of the judicial department of the Government of the United States. As such he has spoken ; as such he has taken this position ; and as such he has given to the position, as far as in him lies, the weight of the authority of the high office which he holds. And just as certainly as the position which he has taken should be confirmed by the higher court as the position of the Government, just so certainly it would be entirely and forever beyond his power either to check or to control the logic of it in any way ; and just so certainly would the religious element that is enlisted and favored in this thing, see that the logic of the position was carried fully to the end which even he sees and acknowledges is involved in it.

The truth is that government is one of the most intensely logical things in this world. A position taken to-day may not reach the end of its logic in a generation, or in two generations, or even in a hundred years. But if it be a position involving an important principle such as this, it *will* reach the end of its logic as certainly as the government continues.

Yet Judge Hammond, not content with such a display of logical acumen as the above, and as though to annihilate all basis for any logical deduction of any kind whatever, proceeds to lay down as "the truth" this astounding proposition : —

"The truth is that no principle or dogma of government, or of any other human conduct, can be applied according to the inexorable tendency of its logic."

Briefly stated, this says that no principle of human conduct can be logically applied. But it is difficult to conceive how any person, who ever drew a single conclusion in his life and acted upon it, could soberly make such a statement. It is true that some men in some things are erratic, inconsistent, illogical. But all history demonstrates in a thousand ways that with humanity, whether viewed in the individual or

in government, principles of human conduct are applied strictly according to the inexorable tendency of their logic. Indeed, it would be an easy task to develop the principle of human conduct, the inexorable tendency of the logic of which has produced this very *dictum* upon which we have been required to bestow so much attention.

As a matter of fact, to admit the truth of the proposition here quoted would be to renounce the very faculty of reason or intelligence itself ; which, by the way, is but the inexorable tendency of the logic of Judge Hammond's position.

Another important statement in emphasis of positions taken in the *dictum* is the following : —

“It is a somewhat humiliating spectacle to see the Sunday advocates trying to justify the continuance of Sunday legislation . . . upon the argument that it is not in conflict with the civic dogma of religious freedom. *It surely is.*”

Yet in the face of every constitutional provision, State and national, touching the question, he persists in justifying this palpable conflict with the civic dogma of religious freedom, by still arguing that —

“The bare fact that the mass desires Sunday as the public day of rest, is enough to justify its civic sanction ; and the potentiality of *the fact that it is in aid of the religion* of that mass *might be frankly confessed and not denied.*”

This is again but to justify every piece of religious persecution that was ever inflicted in this world. And under such dogma as this, all that is required for this whole line of enforced religious observances and persecutions to be taken up and carried forward again, is that “the mass” shall demand it. And so far as Judge Hammond's jurisdiction could be made to extend, the whole power of the Government, whether State or national, would be exerted in behalf of this mass, who should choose to pursue a course “in conflict with the civic dogma of religious freedom.” In view of these statements we should like to have the Judge explain just what is the civic dogma of religious freedom.

Yet further, and in his very last words, so far, on the subject, he still justifies the doctrine of persecution in the following sentence : —

“It is also noticeable that the early Christians commenced their assaults upon the old religions by a disregard of their holy days, and for this they were first persecuted by the law, as they [*sic*] now persecute therewith the Jews and the Seventh-day Adventists.”

We are not by any means ready to admit that it is the early Christians who *now* persecute the Jews and the Seventh-day Adventists. Neither the early Christians nor any other Christians, either now or at any other time, ever did persecute. If any man persecutes, he is not a Christian. It is true that the early Christians were persecuted, by “due process of law,” too, precisely as the Jews and the Seventh-day Adventists are now persecuted by “due process of law.” The persecution then was heathenish, and so it is now. The “due process of law” by which the persecution was then legalized and justified, was but the manifestation of the “inexorable tendency of the logic” of the pagan “principle of human conduct,” and such only it is now.

And with the persecuted Jews and Seventh-day Adventists we are only glad to stand and be classed with the early Christians, to bear their reproach and to share their sufferings ; as we know that in suffering with them we are suffering with Him with whom they suffered. And “it is a faithful saying, If we suffer with him, we shall also reign with him.” And he is the Author of a religious liberty which is absolute and eternal.

WHENCE CAME IT ALL?

From the extracts which we have made and discussed in this review, we have no doubt that the reader has wondered where in the world a judge of a United States Court ever could have got such an abundance of such strange principles. He was sitting in the place, and speaking officially from the bench, of a judge of a court of the Government of the United States. It were to be expected, therefore, that he would announce the principles of that Government. Instead of this, however, he boldly sets forth propositions and principles that are utterly subversive of every principle of the Government of the United States, as that Government was originally established, and as the people have supposed it was being maintained.

Where did he get them? We are not left to answer this question ourselves, nor in a way in which there need be any fear of making a mistake. The answer is already and abundantly made, and furnished ready to our hand. All we need to do is to transcribe such portions as may be required to answer the inquiry that has been raised.

The decision of the court and the *dictum* of the Judge were filed at Memphis, Tennessee, Aug. 1, 1891, and were printed in full in the Memphis *Appeal-Avalanche* of the next day, August 2. Then in the same paper, under date of August 30, there is a communication nearly four columns in length, entitled, "The Sunday Habit," upon the same subject, covering the same ground, signed "E. S. Hammond," and dated "Aug. 12, 1891." The head-lines of the communication show that the E. S. Hammond whose name is signed to it is the same one, who, as Judge E. S. Hammond, filed the *dictum* August 1, which was printed August 2. And every line of the communication plainly shows that it was from *Mr. E. S. Hammond, the individual*, that *Hon. E. S. Ham-*

mond, *the judge*, obtained the principles and propositions which are set forth in the *dictum*.

Nor were they simply gotten up for the occasion, or prepared on short notice. By *Mr.* Hammond's express statement they are shown to have been of long standing, if not inherent in the individual. After stating again some of the leading thoughts of the *dictum* of the judge, *Mr.* Hammond, with a satisfaction that is clearly apparent, announces that : —

“ Upon this line of argument, the writer *some years ago*, being invited to lecture before his Jewish fellow-citizens upon the question whether Christianity can be a part of the law of the land, sought to reconcile them to the civic doctrine of obedience to a dominant though distasteful custom, even at the economic sacrifice of another day of labor, rather than attempt to overthrow a habit so fixed as the Sunday habit, by the comparatively weak process of individual defiance of the custom, and to agitate the incorporation of an exception in the Sunday laws in favor of him who conscientiously had abstained from labor on Saturday.”

This shows that the doctrine of obedience to a dominant religious party, which, by “a sort of factitious advantage” may control the civil power, and by it compel conformity to their religious opinions or dogmas, is an old and favorite doctrine of *Mr.* Hammond's. And he seems to be so smitten with his despotic principles that he not only seizes every opportunity to air them and parade them before the public, but must needs use the judicial office of the United States to create an opportunity.

As for his effort to reconcile his Jewish fellow-citizens to his doctrine, we can say : First, unless his Jewish fellow-citizens of Tennessee are much more financially liberal than they are in any other part of the country, they would hardly appreciate his request that they pay sixteen and two thirds per cent of their income for the privilege of being reconciled to “the civic doctrine” of obedience to a dominant and distasteful religious custom ; and, secondly and above all, unless they

are entirely lost to the religious integrity that has always characterized their race, they would still less appreciate his invitation to surrender to a dominant party and to a distasteful custom, all their rights of conscience, for the privilege of being so reconciled.

For to surrender all their rights of conscience is just what he asks them to do. For when an exception is either asked or granted, upon the condition that those who are excepted shall "conscientiously" abstain from labor on another day, it then becomes a matter of judicial decision as to what is conscientious abstinence or observance. This has already been declared by the courts of those States which have exemption clauses in their Sunday laws. The decisions have declared that the burden of proof of conscientious action rests upon him who makes the claim of exception on account of conscientious observance of another day, and the proof must be such *as will satisfy the court*.

Thus it is demonstrated that Mr. Hammond's proposition, of which he seems to be so proud, is simply a proposal that citizens of the United States and of the State of Tennessee shall surrender to the control of courts and juries their conscientious convictions, their conscientious beliefs, and their conscientious observances; that they shall no longer observe the Sabbath according to the dictates of their own consciences, but only according to the dictates *of the courts*.

This is precisely the doctrine of the *dictum* of Judge Hammond, and it is evident that it was derived from Mr. E. S. Hammond, *the individual*; for it is in open contradiction to both the Constitution of the United States and of the State of Tennessee, both of which were specifically before the Judge when he set forth his *dictum*.

The Constitution of the State of Tennessee, whose citizens Mr. Hammond was endeavoring to reconcile to the dictates of a dominant religious party, by asking them to surrender to the courts their rights of conscience, plainly

declares that "no human authority can *in any case whatever* control or interfere with the rights of conscience." Therefore it is plain that in the proposal which Mr. Hammond made to his Jewish fellow-citizens of Tennessee, he spoke in open contradiction to the Constitution of that State, as well as in total oblivion of every principle of the rights of conscience; and actually advised his Jewish fellow-citizens to surrender their explicitly declared Constitutional rights, as well as their own individual and divine rights of conscience.

The Constitution of the United States, which Judge Hammond is empowered to construe, which he is sworn faithfully to maintain, and which is intended to be the supreme guide in all the deliverances which he renders from the bench upon which he sits — "the American Constitution, in harmony with the people of the several States — withholds from the Federal Government the power *to invade* the home of reason, *the citadel of conscience*." It is evident, therefore, that the principles of that *dictum* were not derived in any sense from the Constitution which the Judge is sworn to maintain, and which is intended to be his guide; nor were they derived from the Constitution of Tennessee, which at the time was subject to his cognizance.

Therefore, as the principles of Judge Hammond's *dictum* are *not* the principles of either the Constitution of the United States or of the State of Tennessee, both of which were the direct subject of his judicial cognizance; and as they *are* explicitly the principles of Mr. E. S. Hammond, *the individual*, as expressed in his communication of Aug. 12, 1891, to the *Appeal-Avalanche*, and set forth "some years ago" from the lecture platform, it logically follows that the principles announced in the *dictum* of Hon. E. S. Hammond, *the judge*, were derived solely from Mr. E. S. Hammond, *the individual*. And from this it follows inevitably that upon the question of religious right, Hon. E. S. Hammond, of the Circuit Court of the United States, has not hesitated to set forth, from the

judicial bench of the United States, his own personal and individual opinions, to clothe them as far as possible with the authority that attaches to such a position, and to pass them off upon the American people as the principles of the Government of the United States.

This illustrates another point, and one which all history emphasizes: that is, that whenever religion becomes in any way connected with the civil power, it is always *the personal opinions* as to religion, of those who happen at the time to be in power, that are given the force of law which all are expected to accept, and to which all are obliged by authority of Government to submit. And the first éssay of the kind by a court of the United States ought to be enough to awaken the people of this nation to the wisdom of the Constitution and of the governmental fathers who made it, in straitly forbidding the Government to take cognizance of religious things in any way whatever.

Mr. Hammond presumes to announce for the Jews, that which of course he declares to be to their "credit," that "they adopt this [his] plan of compliance." But we are very happy to know and to publish that he also announces that the "Anglo-Saxon who follows the tenet of the Jews as to the Sabbath, is more irreconcilable to the sacrifice he is called to make."

All honor to such Anglo-Saxons then! May their tribe increase abundantly! And we sincerely hope that every one of them will forever remain completely irreconcilable to any such sacrifice or compliance. Better a thousand times to die as poor King, the victim in this case, did, condemned by such "process of law" and under a \$1,000 bail, or even in a dungeon, than to comply with the bigoted demands of a religious party, who, "in spite of the clamor for religious freedom and the progress that has been made in the absolute separation of Church and State," and by "a sort of factitious advantage," "have secured the aid of the civil law!"

Better to die the freemen of Jesus Christ, than to live the slaves of a religious despotism!

R. M. King, the victim of this persecution, is dead. He died as he had lived, a humble, harmless man, and a sincere Christian. He died condemned by the courts of Tennessee and the Circuit Court of the United States, and bound in \$1,000 bail on appeal to the Supreme Court of the United States. By his death his case has passed from earthly courts, and stands appealed to the Supreme Court of the Universe.

That Court will surely sit, for God "hath appointed a day in the which he will judge the world in righteousness." In that day there will sit a Judge with whom neither "factitious advantage" nor "public opinion," but only *justice*, shall have any weight. And in that day we would far rather stand in Mr. King's place than in that of his persecutors; for He who shall sit as Judge in that day, has long ago declared, "Inasmuch as ye have done it unto one of the least of these my brethren, ye have done it unto me;" and, "Whoso shall offend one of these little ones which believe in me, it were better for him that a millstone were hanged about his neck, and that he were drowned in the depth of the sea."

APPENDIX.

SUPREME COURT OF CALIFORNIA, EX-PARTE NEWMAN.

By special request we reprint here the decision of the California Supreme Court, from which we have several times quoted in this review. It is well worthy of universal circulation and acceptance, as it is the only judicial decision ever rendered upon the question of Sunday observance that accords with the common principles of right or justice, with American principles as announced in the Declaration of Independence and the national and State Constitutions, or with Christian principles. Would that the principles of this masterly decision might become ingrained in the intellectual make-up of every person in the United States : —

TERRY, C. J. — The petitioner was tried and convicted before a justice of the peace for a violation of the Act of April, 1858, entitled, "An Act for the Better Observance of the Sabbath," and upon his failure to pay the fine imposed, was imprisoned.

The counsel for petitioner moves his discharge, on the ground that the Act under which these proceedings were had is in conflict with the first and fourth sections of the first Article of the State Constitution, and therefore void.

The first section declares, "All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty ; acquiring, possessing, and protecting property ; and pursuing and obtaining safety and happiness."

The fourth section declares, "The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State."

The questions which arise in the consideration of the case, are : —

1. Does the act of the Legislature make a discrimination or preference favorable to one religious profession ? or is it a mere civil rule of conduct ?

2. Has the Legislature the power to enact a municipal regulation which enforces upon the citizen a compulsory abstinence from his ordinary lawful and peaceable avocations for one day in the week?

There is no expression in the Act under consideration which can lead to the conclusion that it was intended as a civil rule, as contradistinguished from a law for the benefit of religion. It is entitled, "An Act for the Better Observance of the Sabbath," and the prohibitions in the body of the Act are confined to the "Christian Sabbath."

It is, however, contended, on the authority of some of the decisions of other States, that notwithstanding the pointed language of the Act, it may be construed into a civil rule of action, and that the result would be the same, even if the language were essentially different.

The fault of this argument is that it is opposed to the universally admitted rule which requires a law to be construed according to the intention of the law-maker, and this intention to be gathered from the language of the law, according to its plain and common acceptance.

It is contended that a civil rule requiring the devotion of one seventh of the time to repose is an absolute necessity, and the want of it has been dilated upon as a great evil to society. But have the Legislature so considered it? Such an assumption is not warranted by anything contained in the Sunday law. On the contrary, the intention which pervades the whole Act is to enforce, as a religious institution, the observance of a day held sacred by the followers of one faith, and entirely disregarded by all the other denominations within the State. The whole scope of the Act is expressive of an intention on the part of the Legislature to require a periodical cessation from ordinary pursuits, not as a civil duty necessary for the repression of any existing evil, but in furtherance of the interests, and in aid of the devotions, of those who profess the Christian religion.

Several authorities, affirming the validity of similar statutes, have been cited from the reports of other States. While we entertain a profound respect for the courts of our sister States, we do not feel called upon to yield our convictions of right to a blind adherence to precedent; especially when they are, in our opinion, opposed to principle; and the reasoning by which they are endeavored to be supported is by no means satisfactory or convincing. In *Bryan vs. Berry* (6 Cal. 398), in reference to the decisions of other States, we said: "Decided cases are, in some sense, evidence of what the law is. We say in some sense, because it is not so much the decision as it is the reasoning upon which the decision is based, which makes it authority, and requires it to be respected."

It will be unnecessary to examine all the cases cited by the district attorney. The leading cases in which the question is more elaborately discussed than in the others, are the cases of *Specht vs. the Commonwealth* (8 Barr, 313), and the *City Council vs. Benjamin* (2 Strob. 508), decided respectively by the Supreme Courts of Pennsylvania and South Carolina.

These decisions are based upon the ground that the statutes requiring the observance of the Christian Sabbath established merely a civil rule, and make no discrimination or preference in favor of any religion. By an examination of these cases, it will be seen that the position taken rests in mere assertion, and that not a single argument is adduced to prove that a preference in favor of the Christian religion is not given by the law. In the case in *8 Barr*, the Court said: "It [the law] intermeddles not with the natural and indefeasible right of all men to worship Almighty God according to the dictates of their own consciences; it compels none to attend, erect, or support any place of worship, or to maintain any ministry, against his consent; it pretends not to control or interfere with the rights of conscience, and it establishes no preference for any religious establishment or mode of worship."

This is the substance of the arguments to show that these laws establish no preference. The last clause in the extract asserts the proposition broadly; but it is surely no legitimate conclusion from what precedes it, and must be taken as the plainest example of *petitio principii*. That which precedes it establishes that the law does not destroy religious toleration, but that is all.

Now, does our Constitution, when it forbids discrimination or preference in religion, mean merely to guarantee toleration? For that, in effect, is all which the cases cited seem to award, as the right of a citizen. In a community composed of persons of various religious denominations, having different days of worship, each considering his own as sacred from secular employment, all being equally considered and protected under the Constitution, a law is passed which in effect recognizes the sacred character of one of these days, by compelling all others to abstain from secular employment, which is precisely one of the modes in which its observance is manifested and required by the creed of that sect to which it belongs as a Sabbath. Is not this a discrimination in favor of the one? Does it require more than an appeal to one's common sense to decide that this is a preference? And when the Jew or seventh-day Christian complains of this, is it any answer to say, Your conscience is not constrained, you are not compelled to worship or to perform religious rites on that day, nor forbidden to keep holy the day which you esteem as a Sabbath? We think not, however high the authority which decides otherwise.

When our liberties were acquired, our republican form of government adopted, and our Constitution framed, we deemed that we had attained not only toleration, but religious liberty in its largest sense,—a complete separation between Church and State, and a perfect equality without distinction between all religious sects. "Our Government," says Mr. Johnson, in his celebrated Sunday-mail report, "is a civil and not a religious institution; whatever may be the religious sentiments of citizens, and however variant, they are alike entitled to protection from the Government, so long as they do

not invade the rights of others." And again, dwelling upon the danger of applying the powers of government to the furtherance and support of sectarian objects, he remarks, in language which should not be forgotten, but which ought to be deeply impressed on the minds of all who desire to maintain the supremacy of our republican system : "Extensive religious combinations to effect a political object, are, in the opinion of the committee, always dangerous. The first effort of the kind calls for the establishment of a principle which would lay the foundation for dangerous innovation upon the spirit of the Constitution, and upon the religious rights of the citizen. If admitted, it may be justly apprehended that the future measures of the Government will be strangely marked, if not eventually controlled, by the same influence. All religious despotism commences by combination and influence ; and when that influence begins to operate upon the political institutions of a country, the civil power soon bends under it, and the catastrophe of other nations furnishes an awful warning of the consequences. . . . What other nations call religious toleration, we call religious rights ; they were not exercised in virtue of governmental indulgence, but as rights of which the Government cannot deprive any portion of her citizens, however small. Despotic power may invade those rights, but justice still confirms them. Let the national Legislature once perform an act which involves the decision of a religious controversy, and it will have passed its legitimate bounds. The precedent will then be established, and the foundation laid for that usurpation of the divine prerogative in this country, which has been the desolating scourge of the fairest portions of the Old World. Our Constitution recognizes no other power than that of persuasion for enforcing religious observances."

We come next to the question whether, considering the Sunday law as a civil regulation, it is in the power of the Legislature to enforce a compulsory abstinence from lawful and ordinary occupation for a given period of time, without some apparent civil necessity for such action ; whether a pursuit, which is not only peaceable and lawful, but also praiseworthy and commendable for six days in the week, can be arbitrarily converted into a penal offense or misdemeanor on the seventh. As a general rule, it will be admitted that men have a natural right to do anything which their inclinations may suggest, if it be not evil in itself, and in no way impairs the rights of others. When societies are formed, each individual surrenders certain rights, and as an equivalent for that surrender has secured to him the enjoyment of certain others, appertaining to his person and property, without the protection of which society cannot exist. All legislation is a restraint on individuals, but it is a restraint which must be submitted to by all who would enjoy the benefits derived from the institutions of society.

It is necessary, for the preservation of free institutions, that there should be some general and easily recognized rule, to determine the extent of governmental power, and establish a proper line of demarkation between

such as are strictly legitimate and such as are usurpations which invade the reserved rights of the citizen, and infringe upon his constitutional liberty. The true rule of distinction would seem to be that which allows to the Legislature the right so to restrain each one in his freedom of conduct, as to secure perfect protection to all others from every species of danger to person, health, and property ; that each individual shall be required so to use his own as not to inflict injury upon his neighbor ; and these, we think, are all the immunities which can be justly claimed by one portion of society from another, under a government of constitutional limitation. For these reasons the law restrains the establishment of tanneries, slaughter-houses, gunpowder depots, the discharge of fire-arms, etc., in a city, the sale of drugs and poisons, and the practice of physic by incompetent persons, and makes a variety of other prohibitions, the reason and sense of which are obvious to the most common understanding.

Now, when we come to inquire what reason can be given for the claim of power to enact a Sunday law, we are told, looking at it in its purely civil aspect, that it is absolutely necessary for the benefit of his health and the restoration of his powers ; and in aid of this great social necessity, the Legislature may, for the general convenience, set apart a particular day of rest, and require its observance by all.

This argument is founded on the assumption that mankind are in the habit of working too much, and thereby entailing evil upon society ; and that, without compulsion, they will not seek the necessary repose which their exhausted natures demand. This is to us a new theory, and is contradicted by the history of the past and the observations of the present. We have heard, in all ages, of declamations and reproaches against the vice of indolence ; but we have yet to learn that there has ever been any general complaint of an intemperate, vicious, unhealthy, or morbid industry. On the contrary, we know that mankind seek cessation from toil from the natural influences of self-preservation, in the same manner and as certainly as they seek slumber, relief from pain, or food to appease their hunger.

Again, it may be well considered that the amount of rest which would be required by one half of society may be widely disproportionate to that required by the other. It is a matter of which each individual must be permitted to judge for himself, according to his own instincts and necessities. As well might the Legislature fix the days and hours for work, and enforce their observance by an unbending rule which shall be visited alike upon the weak and strong. Whenever such attempts are made, the law-making power leaves its legitimate sphere, and makes an incursion into the realms of physiology ; and its enactments, like the sumptuary laws of the ancients, which prescribe the mode and texture of people's clothing, or similar laws which might prescribe and limit our food and drink, must be regarded as an invasion, without reason or necessity, of the natural rights of the citizen, which are guaranteed by the fundamental law.

The truth is, however much it may be disguised, that this one day of rest is a purely religious idea. Derived from the Sabbatical institutions of the ancient Hebrew, it has been adopted into all the creeds of succeeding religious sects throughout the civilized world; and whether it be the Friday of the Mohammedan, the Saturday of the Israelite, or the Sunday of the Christian, it is alike fixed in the affections of its followers beyond the power of eradication; and in most of the States of our Confederacy, the aid of the law to enforce its observance has been given, under the pretense of a civil, municipal, or police regulation.

But it has been argued that this is a question exclusively for the Legislature; that the law-making power alone has the right to judge of the necessity and character of all police rules, and that there is no power in the judiciary to interfere with the exercise of this right.

One of the objects for which the judicial department is established is the protection of the constitutional rights of the citizen. The question presented in this case is not merely one of expediency or abuse of power; it is a question of usurpation of power. If the Legislature have the authority to appoint a time of compulsory rest, we would have no right to interfere with it, even if they required a cessation from toil for six days in the week instead of one. If they possess this power, it is without limit, and may extend to the prohibition of all occupations at all times.

While we concede to the Legislature all the supremacy to which it is entitled, we cannot yield to it the omnipotence which has been ascribed to the British Parliament, so long as we have a Constitution which limits its powers, and places certain innate rights of the citizen beyond its control.

It is said that the first section of Article first of the Constitution is a commonplace assertion of a general principle, and was not intended as a restriction upon the power of the Legislature. This court has not so considered it.

In *Billings vs. Hall* (7 Cal. I), Chief-Justice Murray says, in reference to this section of the Constitution: "This principle is as old as the Magna Charta. It lies at the foundation of every constitutional government, and is necessary to the existence of civil liberty and free institutions. It was not lightly incorporated into the Constitution of this State, as one of those political dogmas designed to tickle the popular ear, and conveying no substantial meaning or idea, but as one of those fundamental principles of enlightened government, without a rigorous observance of which there could be neither liberty nor safety to the citizen."

In the same case, Mr. Justice Burnett asserted the following principles, which bear directly upon the question:—

"That among the inalienable rights declared by our Constitution as belonging to each citizen, is a right of 'acquiring, possessing, and protecting property.' . . . 'That for the Constitution to declare a right inalienable, and at the same time leave the Legislature unlimited power over it, would be

a contradiction in terms, an idle provision, proving that a Constitution was a mere parchment barrier, insufficient to protect the citizen, delusive, and visionary, and the practical result of which would be to destroy, not conserve, the rights it vainly assumed to protect.' "

Upon this point I dissent from the opinion of the court in *Billings vs. Hall*, and if I considered the question an open one, I might yet doubt its correctness, but the doctrine announced in that opinion having received the sanction of the majority of the court, has become the rule of decision, and it is the duty of the court to see it is uniformly enforced, and that its application is not confined to a particular class of cases.

It is the settled doctrine of this court to enforce every provision of the Constitution in favor of the rights reserved to the citizens against a usurpation of power in any question whatsoever; and although in a doubtful case we would yield to the authority of the Legislature, yet upon the question before us we are constrained to declare that, in our opinion, the Act in question is in conflict with the first section of Article first of the Constitution, because, without necessity, it infringes upon the liberty of the citizen, by restraining his right to acquire property.

And that it is in conflict with the fourth section of the same article because it was intended as, and is in effect, a discrimination in favor of one religious profession, and gives it a preference over all others.

It follows that the petitioner was improperly convicted, and it is ordered that he be discharged from custody.

Burnett, J.—The great importance of the constitutional principle involved, and the different view I take of some points, make it proper for me to submit a separate opinion. The question is one of no ordinary magnitude, and of great intrinsic difficulty. The embarrassment we might otherwise experience in deciding a question of such interest to the community, and in reference to which there exists so great a difference of opinion, is increased by the consideration that the weight of the adjudged cases is against the conclusion at which we have been compelled to arrive.

In considering this constitutional question it must be conceded that there are some great leading principles of justice, eternal and unchangeable, that are applicable at all times and under all circumstances. It is upon this basis that all Constitutions of free government must rest. A Constitution that admits that there are any inalienable rights of human nature reserved to the individual, and not ceded to society, must, of logical necessity, concede the truth of this position. But it is equally true that there are other principles, the application of which may be justly modified by circumstances.

It would seem to be true that exact justice is only an exact conformity to some law. Without law there could be neither merit nor demerit, justice nor injustice; and when we come to decide the question whether a given act be just or unjust, we must keep in our view that system of law by

which we judge it. As judged by one code of law, the act may be innocent ; while as judged by another, it may be criminal. As judged by the system of abstract justice (which is only that code of law which springs from the natural relation and fitness of things), there must be certain inherent and inalienable rights of human nature that no government can rightfully take away. These rights are retained by the individual because their surrender is not required by the good of the whole. The just and legitimate ends of civil government can be practically and efficiently accomplished whilst these rights are retained by the individual. Every person, upon entering into a state of society, only surrenders so much of his individual rights as may be necessary to secure the substantial happiness of the community. Whatever is not necessary to attain this end is reserved to himself.

But, conceding the entire correctness of these views, it must be equally clear that the original and primary jurisdiction to determine the question what are these inalienable rights, must exist somewhere ; and wherever placed, its exercise must be conclusive, in the contemplation of the theory, upon all.

The power to decide what individual right must be conceded to society, originally existed in the sovereign people who made the Constitution. As they possessed this primary and original jurisdiction, their action must be final. If they exercised this power, in whole or in part, in the formation of the Constitution, their action, so far, is conclusive.

It must also be conceded that this power, from its very nature, must be legislative and not judicial. The question is simply one of necessity — of abstract justice. It is a question that naturally enters into the mind of the law-maker, not into that of the law-expounder. The judicial power, from the nature of its functions, cannot determine such a question. Judicial justice is but conformity to the law as already made.

If these views be correct, the judicial department cannot, in any case, go behind the Constitution, and by any original standard judge the justice or legality of any single one or more of its provisions. The judiciary is but the creature of the Constitution, and cannot judge its creator. It cannot rise above the source of its own existence. If it could do this, it could annul the Constitution, instead of simply declaring what it means. And the same may be said of any act of the Legislature, if within the limits of its discretion as defined by the Constitution. Such an act of the Legislature is as much beyond the reach of the judiciary as is the Constitution itself. (1 Bald. 74 ; 1 Brock. 203 ; 10 Pet. 478 ; 5 Geo. 194.)

But it is the right and imperative duty of this court to construe the Constitution and statutes in the last resort, and from that construction, to ascertain the will of the law-maker. And the only legitimate purpose for which a court can resort to the principles of abstract justice, is to ascertain the proper construction of the law in cases of doubt. When, in the opinion of the court, a given construction is clearly contrary to the manifest princi-

ples of justice, then it will be presumed, is a case not free from doubt that the Legislature never intended such a consequence. (*Varick vs. Briggs*, 6 Paige, 330 ; *Flint River Steamboat Company vs. Foster*. 5 Geo. 194.) But when the intention is clear, however unjust and absurd the consequences may be, it must prevail, unless it contravenes a constitutional provision.

If these views be correct, it follows that there can be for this court no higher law than the Constitution ; and in determining this question of constitutional construction, we must forget, as far as in us lies, that we are religious or irreligious men. It is solely a matter of construction, with which our individual feelings, prejudices, or opinions upon abstract questions of justice can have nothing to do. The Constitution may have been unwisely framed. It may have given too much or too little power to the Legislature. But these are questions for the statesman, not for the jurist. Courts are bound by the law as it is.

The British Constitution differs from our American Constitution in one great leading feature. It only classifies and distributes, but does not limit the powers of government ; while our Constitutions do both. It is believed that this difference has been sometimes overlooked by our courts in considering constitutional questions ; and English authorities followed in cases to which they could not be properly applied. We often meet with the expression that Christianity is a part of the common law. Conceding that this is true, it is not perceived how it can influence the decision of a constitutional question. The Constitution of this State will not tolerate any discrimination or preference in favor of any religion ; and so far as the common law conflicts with this provision, it must yield to the Constitution. Our constitutional theory regards all religions, as such, equally entitled to protection, and all equally unentitled to any preference. Before the Constitution they are all equal. In so far as the principles found in all, or in any one or more of the different religious systems, are considered applicable to the ends legitimately contemplated by civil constitutional government, they can be embodied in our laws and enforced. But when there is no ground or necessity upon which a principle can rest, but a religious one, then the Constitution steps in, and says that you shall not enforce it by authority of law.

The Constitution says that “ the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State.”

If we give this language a mere literal construction, we must conclude that the protection given is only intended for the professor, and not for him who does not worship. “ The free exercise and enjoyment of religious profession and worship,” is the thing expressly protected by the Constitution. But taking the whole section together, it is clear that the scope and purpose of the Constitution was to assert the great, broad principle of religious freedom for all — for the believer and the unbeliever. The Gov-

ernment has no more power to punish a citizen when he professes no religion, than it has to punish him when he professes any particular religion.

The Act of the Legislature under consideration violates this section of the Constitution, because it establishes a compulsory religious observance; and not, as I conceive, because it makes a discrimination between different systems of religion. If it be true that the Constitution intended to secure entire religious freedom to all, without regard to the fact whether they were believers or unbelievers, then it follows that the Legislature could not create and enforce any merely religious observance whatever. It was the purpose of the Constitution to establish a *permanent* principle, applicable at all times, under all circumstances, and to all persons. If all the people of the State had been unbelievers, the Act would have been subject to the same objection. So, if they had been all Christians, the power of the Legislature to pass the Act would equally have been wanting. The will of the whole people has been expressed through the Constitution; and until his expression of their will has been changed in some authoritative form, it must prevail with all the departments of the State Government. The Constitution, from its very nature as a permanent, organic Act, could not shape its provisions so as to meet the changing views of individuals. Had the Act made Monday, instead of Sunday, a day of compulsory rest, the constitutional question would have been the same. The fact that the Christian *voluntarily* keeps holy the first day of the week, does not authorize the Legislature to make that observance *compulsory*. The Legislature cannot compel the citizen to do that which the Constitution leaves him free to do or omit, at his election. The Act violates as much the religious freedom of the Christian as of the Jew. Because the conscientious views of the Christian compel him to keep Sunday as a Sabbath, he has the right to object, when the Legislature invades his freedom of religious worship, and assumes the power to compel him to do that which he has the right to omit if he pleases. The principle is the same, whether the Act of the Legislature *compels* us to do that which we wish to do or not to do.

The *compulsory* power does not exist in either case. If the Legislature has power over the subject, this power exists without regard to the particular views of the individuals. The sole inquiry with us is whether the Legislature can create a day of compulsory rest. If the Legislature has the power, then it has the right to select the particular day. It could not well do otherwise.

The protection of the Constitution extends to *every* individual, or to none. It is the individual that is intended to be protected. The principle is the same, whether the many or the few are concerned. The Constitution did not mean to inquire how many or how few would profess or not profess this or that particular religion. If there be but a single individual in the State who professes a particular faith, he is as much within the sacred protection of the Constitution as if he agreed with the great majority

of his fellow-citizens. We cannot, therefore, inquire into the particular views of the petitioner, or of any other individual. We are not bound to take judicial notice of such matters, and they are not matters of proof. There may be individuals in the State that hold Monday as a Sabbath. If there be none such now, there may be in the future. And if the unconstitutionality of an Act of this character depended, in any manner, upon the fact that a particular day of the week was selected, then it follows that any individual could defeat the Act by professing to hold the day specified as his Sabbath. The Constitution protects the freedom of religious *profession* and *worship*, without regard to the sincerity or insincerity of the worshiper. We could not inquire into the fact whether the individual professing to hold a particular day as his Sabbath was sincere or otherwise. He has the right to profess and worship as he pleases, without having his motives inquired into. His motives in exercising a constitutional privilege are matters too sacred to be submitted to judicial scrutiny. Every citizen has the undoubted right to vote and worship as he pleases, without having his motives impeached in any tribunal of the State.

Under the Constitution of this State, the Legislature cannot pass any Act, the legitimate effect of which is *forcibly* to establish any merely religious truth, or enforce any merely religious observances. The Legislature has no power over such a subject. When, therefore, the citizen is sought to be compelled by the Legislature to do any affirmative religious act, or to refrain from doing anything, because it violates simply a religious principle or observance, the Act is unconstitutional.

In considering the question whether the Act can be sustained upon the ground that it is a mere municipal regulation, the inquiry as to the reasons which operated upon the minds of members in voting for the measure is, as I conceive, wholly immaterial. The constitutional question is a naked question of legislative power. Had the Legislature the power to do the particular thing done? What was that particular thing? It was the prohibition of labor on Sunday. Had the Act been so framed as to show that it was intended by those who voted for it, as simply a municipal regulation; yet, if, in fact, it contravened the provision of the Constitution securing religious freedom to all, we should have been compelled to declare it unconstitutional for *that* reason. So, the fact that the Act is so framed as to show that a different reason operated upon the minds of those who voted for it, will not prevent us from sustaining the Act, if any portion of the Constitution conferred the power to pass it upon the Legislature.

Where the power exists to do a particular thing, and the thing is done, the reason which induced the act is not to be inquired into by the courts. The power may be abused; but the abuse of the power cannot be avoided by the judiciary. A court may give a wrong reason for a proper judgment; still the judgment must stand. The members of the Legislature may vote for a particular measure from erroneous or improper motives.

The only question with the courts is, whether that body had the power to command the particular Act to be done or omitted. The view here advanced, is sustained substantially by the decision in the case of *Fletcher vs. Peck* (6 Cranch, 131).

It was urged, in argument, that the provision of the first section of the first Article of the Constitution, asserting the "inalienable right of acquiring, possessing, and protecting property," was only the statement in general terms, on a general principle, not capable in its nature of being judicially enforced.

It will be observed that the first Article contains a declaration of rights, and if the first section of that Article asserts a principle not susceptible of practical application, then it may admit of a question whether any principle asserted in this declaration of rights can be the subject of judicial enforcement. But that at least a portion of the general principles asserted in that Article can be enforced by judicial determination, must be conceded. This has been held at all times, by all the courts, so far as I am informed.

The provisions of the sixteenth section of the first Article, which prohibits the Legislature from passing any law impairing the obligation of contracts, is based essentially upon the same ground as the first section, which asserts the right to acquire, possess, and defend property. The right substantially secured by both sections is the right of property. This right of property is the substantial basis upon which the provisions of both sections must rest. The reason of, and the end to be accomplished by, each section, are the same. The debtor has received property or other valuable consideration for the sum he owes the creditor, and the sum, when collected by the creditor, becomes his property. The right of the creditor to collect from the debtor that which is due, is essentially a right of property. It is the right to obtain from the debtor property which is unjustly detained from the creditor.

If we take the position to be true, for the sake of the argument, that the right of property cannot be enforced by the courts against an Act of the Legislature, we then concede a power that renders the restrictions of other sections inoperative. For example, if the Legislature has the power to take the property of one citizen and give it to another without compensation, the prohibition to pass any law impairing the obligation of contracts could readily be avoided. All the Legislature would have to do to accomplish this purpose, would be to allow the creditor first to collect his debt, and afterward take the property of the creditor and give it to the debtor. For if we once concede the power of the Legislature to take the property of A and give it to B, without compensation, we must concede to that body the exclusive right to judge when, and in what instances, this conceded right should be exercised.

It was also insisted, in argument, that the judicial enforcement of the right of property, as asserted in the first section, is inconsistent with

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the power of compulsory process, to enforce the collection of debts by the seizure and sale of the property of the debtor. But is this true? On the contrary, is not the power to seize and sell the property of the debtor expressly given by the Constitution for the very purpose of protecting and enforcing this right of property? When the Constitution says that you shall not impair the obligation of the contract, it says in direct effect that you shall enforce it; and the only means to do this efficiently is by a seizure and sale. The seizure and sale of the property of the debtor was contemplated by the Constitution, as being a part of the contract itself. The debtor stipulates in the contract, that, in case he fails to pay, the creditor may seize and sell his property by legal process. Such is the legal effect of the contract, because the existing law enters into and forms a part of it.

The different provisions of the Constitution will be found, when fairly and justly considered, to be harmonious and mutually dependent one upon the other. A general principle may be asserted in one section without any specification of the exceptions in that place. But it must be evident that practical convenience and logical arrangement will not always permit the exceptions to be stated in the same section. It is a matter of no importance in what part of the Constitution the exception may be found. Wherever found, it must be taken from the general rule, leaving the remainder of the rule to stand. The general right of enjoying and defending life and liberty is asserted in the first section of the first Article; while the exceptions are stated in the eighth, ninth, fifteenth, and eighteenth sections of the same Article. A party may, by express provisions of the Constitution, forfeit his liberty. The same remark in reference to exceptions to general principles, will apply to other provisions.

The right to protect and possess property is not more clearly protected by the Constitution than the right to acquire. The right to acquire must include the right to use the proper means to attain the end. The right itself would be impotent without the power to use its necessary incidents. The Legislature, therefore, cannot prohibit the proper use of the means of acquiring property, except the peace and safety of the State require it. And in reference to this point, I adopt the reasons given by the Chief Justice, and concur in the views expressed by him.

There are certain classes of subjects over which the Legislature possesses a wide discretion; but still this discretion is confined within certain limits; and although, from the complex nature of the subject, these limits cannot always be definitely settled in advance, they do and must exist. It was long held, in general terms, that the Legislature had the power to regulate the remedy; but cases soon arose where the courts were compelled to interpose. In the case of *Bronson vs. Kenzie* (1 How. 311), Chief Justice Taney uses this clear language:—

“It is difficult, perhaps, to draw a line that would be applicable in all cases, between legitimate alterations of the remedy and provisions which in

the form of remedy impair the right ; but it is manifest that the obligation of the contract may, in effect, be destroyed by denying a remedy altogether ; or may be seriously impaired by hampering the proceedings with new conditions and restrictions, so as to make the remedy hardly worth pursuing."

So, the power of the Legislature to pass Recording Acts and Statutes of Limitations is conceded, in general terms, and a wide discretion given. Yet, in reference to these powers, Mr. Justice Baldwin, in delivering the opinion of the Supreme Court of the United States, in the case of *Jackson vs. Lamphine* (3 Pet. 289), uses this language :—

"Cases may occur where the provisions of a law on these subjects may be so unreasonable as to amount to a denial of the right and call for the interposition of the court."

The Legislature is vested by the Constitution with a wide discretion in determining what is necessary to the peace and safety of the State; yet this discretion has some limits. It may be difficult, in many cases, to define these limits with exact precision ; but this difficulty cannot show that there are no limits. Such difficulties must arise under every system of limited government.

The question arising under this Act is quite distinguishable from the case where the Legislature of a State in which slavery is tolerated, passes an Act for the protection of the slave against the inhumanity of the master in not allowing sufficient rest. In this State, every man is a free agent, competent and able to protect himself, and no one is bound by law to labor for any particular person. Free agents must be left free, as to themselves. Had the Act under consideration been confined to infants or persons bound by law to obey others, then the question presented would have been very different. But if we cannot trust agents to regulate their own labor, its times and quantity, it is difficult to trust them to make their own contracts. If the Legislature could prescribe the days of rest for them, then it would seem that the same power could prescribe the hours to work, rest, and eat.

For these reasons, I concur with the Chief Justice in discharging the petitioner.

DECISION AND DICTUM OF JUDGE HAMMOND, IN RE KING.

We reprint herewith also Judge Hammond's decision and *dictum* in full. It is only fair that we should do this, that the reader may examine together and for himself both the decision and our review of it. It is well, also, to print it, that as many as possible of the people may see for themselves how far from the principles that are intended to guide and govern the Courts of the United States, a judge of one of these Courts is ready to go to conform to what he supposes to be public opinion, and to sustain a religious party in a "factitious advantage" which has been acquired and which is maintained "in spite of the clamor for religious freedom and the progress that has been made in the absolute separation of Church and State."

Hammond, J. : The petitioner, R. M. King, was in due form indicted in the Circuit Court of Obion county for that "he then and there unlawfully and unnecessarily engaged in his secular business and performed his common avocation of life, to wit, plowing on Sunday," which said working was charged to be "a common nuisance." Upon a formal trial by a jury he was convicted and fined \$75, which conviction was, upon appeal, affirmed by the Supreme Court, and the fine not being paid, he was imprisoned, all in due form of law.

He thereupon sued this writ of *habeas corpus*, alleging that he is held in custody in violation of the Constitution of the United States, and the sheriff of Obion county sets up in defense of the writ the legal proceedings aforesaid under which he has custody of the prisoner. The petitioner moves for his discharge upon the ground that he is held in violation of the Fourteenth Amendment of the Constitution. He proves that he is a Seventh-day Adventist, keeps Saturday according to his creed, and works on Sunday for that reason alone.

The contention is "that there is not any law in Tennessee" to justify the conviction which was had, and that the proceedings must be not only in legal form, but likewise grounded upon a law of the State, statute or common, making the conduct complained of by the indictment, an offense; otherwise the imprisonment is arbitrary, and "without due process of law," just as effectually within the purview of the Fourteenth Amendment as if the method of procedure had been illegal and void. If there be no law in Tennessee, statute or common, making the act of working on Sunday a nuisance, then, indeed, the conviction is void; for the Amendment is not merely a restraint upon arbitrary procedure in its form, but also in its substance; and however strictly legal and orderly the court may have proceeded to conviction, if the act done was not a crime, as charged, there has been no "due process of law" to deprive the person of his liberty. This is undoubtedly the result of the adjudicated cases, and it is not necessary to cite them.

It is also true that Congress has furnished the aggrieved person with a remedy by writ of *habeas corpus* to enforce in the Federal Courts the restrictions of this amendment, and to protect him against arbitrary imprisonment, in the sense just mentioned ; but it has not and could not constitute those courts tribunals of review, to reverse and set aside the convictions in the State Courts, that may be illegal in the sense that they are founded on an erroneous judgment as to what the statute or common law of the State may be. If so, every conviction in the State Courts would be reversible in the Federal Courts where errors of law could be assigned. To say that there is an absence of any law to justify the prosecution, is only to say that the court has erred in declaring the law to be that the thing done is criminal under the law, and all errors of law import an absence of law to justify the judgment. I do not think the amendment or the *habeas corpus* act has conferred upon this court the power to overhaul the decisions of the State Courts of Tennessee, and determine whether they have, in a given case, rightly adjudged the law of the State to have affixed a criminal quality to the given act of the petitioner.

It is urged that if the judgment of conviction by the State Court be held conclusive of the law in the given case, the Amendment and the Act of Congress are emasculated, and there can be no inquiry, in any case, of value to him who is imprisoned, as to whether he is deprived of his liberty without due process of law ; that the Federal Court must necessarily make an independent inquiry to see whether there be any law, statute or common, upon which to found the conviction ; or else the prisoner is remediless under federal law to redress a violation of this guaranty of the Federal Constitution. It is said that we make the same inquiry into the law of the State under the Fourteenth Amendment that we do into the law of the United States under the Fifth Amendment, containing precisely the same guaranty against the arbitrary exercise of federal power, and that the one is as plenary as the other ; that this case does not fall within the category of those wherein by act of Congress the Federal Courts must give effect to local law as declared by the State tribunals ; and that, while we may not review errors of judgment, we must, in execution of this amendment, vacate, by relief on *habeas corpus*, any void judgment or sentence—made void by the amendment itself.

The court concedes fully the soundness of this position, but not the application of it. It is quite difficult to draw the line of demarkation here between a line of judgment that shall protect the integrity of the State Courts against impertinent review, and maintain the full measure of federal power in giving effect to the amendments ; but, as has been said in other cases of like perplexity, we must confine our efforts to define the power and its limitations within the boundaries required for the careful adjudication of actual cases as they arise ; and I think it more important still that we shall not overlook the fact that we have a dual and complex system of government, which fact of itself and by its necessary implications, must modify the argument of such questions as this, by conforming it to that fact itself. And we find here in this case an easy path out of this perplexity by doing this.

Let us imagine a State without any common law, and only a statutory code of criminal law, — and we have an example at hand in our Federal State, — where we are accustomed to say the United States has no common law of crimes, and he who accuses one of any offense must put his finger on some act of Congress denouncing that particular conduct as criminal. If

we were making the very inquiry so much argued in this case, whether it can be punishable as a crime to work in one's field on Sunday, within the domain of federal jurisprudence, say under the Fifth Amendment instead of the Fourteenth Amendment, it would be easily resolved, and the prisoner would be discharged ; unless the respondent could point to a statute making it so, and precisely according to the accusation or indictment. If such a simple condition of law existed in the State of Tennessee, we could have no trouble with this case. But it does not. There we have a vast body of unwritten laws, civil and criminal, as to which an entirely different method of ascertaining what is and what is not law obtains. What is that method ? It is not essential to go into any legal casuistry to determine whether, when a point of common law first arises for adjudication, the judges who declare it make the law, or only testify to the usage or custom which we call law ; for it is equally binding in either case as a declaration. [1 Blk., 69.] The judges are the depositaries of that law, just as the statute book is the depository of the statute law ; and when they speak, the law is established, and none can gainsay it. They have the power, for grave reasons, to change an adjudication and re-establish the point, even reversely, but generally are bound and do adhere to the first precedent. This is "due process of law" in that matter. Moreover, when the mooted point has been finally adjudicated between the parties, it is absolutely conclusive as between them. Other parties in other cases may have the decision reversed, as a precedent for all subsequent cases ; but there is no remedy in that case or for that party, unless it may be by executive clemency, if a criminal case, against the erroneous declaration of the law. In that celebrated "disquisition," as he calls it in the preface, of Mr. Jefferson, in which he so angrily combats the *dictum* of Sir Matthew Hale, that "Christianity is parcel of the laws of England," he accurately expresses this principle in these words : "But in later times we take no judge's word for what the law is, further than is warranted by the authorities he appeals to. His decision may bind the unfortunate individual who happens to be the particular subject of it ; but it cannot alter the law. [Jeff. Rep. (Va.) Appdx., 139.] And Mr. Chief Justice Clayton, in his equally celebrated reply to Mr. Jefferson, states that this was the very point decided by the case cited from the Year Books [34 H. 6, 38], by Mr. Jefferson and misunderstood by him ; namely, that when the ecclesiastical court in a case within its jurisdiction had decided a given matter, the common law of England recognized it as conclusive when collaterally called in question in the common law courts. [State *vs.* Chandler, 2 Harr., 553, 559.]

But the application of this principle should not be misunderstood here, and it should be remembered that in a case like this we apply it as a matter of evidence. The verdict of the jury and the judgment of the State Circuit Court thereon, and its affirmance by the Supreme Court of Tennessee (a mere incident this affirmance is, however, in the sense we are now considering the principle), is to us here, and to all elsewhere, necessarily conclusive testimony as to what the common law of Tennessee is in the matter of King's plowing in his fields on the Sundays mentioned in the indictment and proved in the record. As to the petitioner, whether he be an unfortunate victim of an erroneous verdict and decision or not, it is due process of law, and according to the law of the land, that he shall be bound by it everywhere except in a court competent to review and reverse the verdict and the judgment upon it ; and surely it was not the intention of the

Fourteenth Amendment to confer upon this court or any other Federal Court of any degree whatever, that power. It was due process of law for the jury having him properly in hand, to render the verdict and for the court to pass judgment upon it; and the declaration of the judges that to do that which he did was a common nuisance according to the common law of Tennessee, is conclusive evidence, as to that act of his, that it was so. This is not holding that the Federal Courts shall not, upon a *habeas corpus*, inquire independently as to whether the act complained of was a crime as charged in the indictment or not, but only that in making that inquiry, however independently, the verdict and judgment, if the State Court had jurisdiction and the procedure has been regular, must be conclusive evidence on the point of law. It is not binding, like the decisions which are rules of property are binding, because our federal statute says they shall be; nor like a matter of local law, which the Federal Courts administer, because it is local law and binding between the parties — these are inherently binding on us; but binding as we are bound by the unimpeachable testimony of a witness, as we are bound by the conclusive evidence of the certificate of the Secretary of State that certain given words constitute a statute of the State, or by the printed and authorized book of statutes, or by our judicial notice which we take that certain given words do constitute a statute, or as we might under some circumstances be bound by the oral testimony of witnesses as to what is the law of a foreign state. In the very nature of the common law, and, indeed, as that very “due process of law” after which we are looking so concernedly in this case, this principle is fundamental. We have no other possible method of ascertaining what is the common law of Tennessee in this case than that of looking to the verdict and judgment as our witness of it. If we go to former precedents and other authorities, like those of the opinions of the sages and text-writers, we do that which no other court has power to do, in that case, except the court which had pending before it the indictment and the plea of the defendant thereto, making the technical issue as to what the law of the case was; and we usurp the functions of the trial judge, and jury, or of the appellate court having authority to review the trial judge, and jury.

It is my opinion that this principle reaches even further than this, and that, evidentially, we are quite as conclusively bound, upon this independent inquiry we are making, by the testimony of the decision of *Parker vs. the State* [16 Lee, 476], that it is a common nuisance in Tennessee, according to its common law, to work on Sunday; notwithstanding it somewhat ignominiously overrules, without mentioning it, the former precedents in that court, of the *State vs. Long* [7 Baxter, 95]; because it is likewise a part of the principle itself that the last precedent is controlling; and we do not, as suggested by counsel, take this conflict of precedent as authorizing an independent judgment, as we do in an entirely different class of cases involving the construction of contracts made by the State in the form of statutes. In that class of cases it is a mere conflict of opinion as to the intention of the parties in using certain words in their form of contract, generally as much open to the Federal as the State Courts, where the conflict has resulted in diverse opinions; but here there is not any such latitude of action, because of the conclusive effect of a precedent at common law as evidence of the common law itself. This is what the Supreme Court means when it says, in cases like this and other cases there by writ of error from the State courts, that we are bound by the decisions of the State

Courts as to the criminal laws of the State. Whether it be a question as to whether there be a common-law crime or an offense under the proper construction of a doubtful statute, or whether the Constitution of the State has been properly construed, it is all the same. *Re Duncan*, 139 U. S., 449; *Leeper vs. Texas*, Ib. 462, 467; *Baldwin vs. Kansas*, 129 United States, 52; and numerous other cases of like import might be cited. The result of them all is that in enforcing the Fourteenth Amendment the Federal Courts will confine themselves to the function of seeing that the fundamental principle — that the citizen shall not be arbitrarily proceeded against contrary to the usual course of the law in such cases, nor punished without authority of law, nor unequally, and the like — shall not be violated in any given case; but they will not substitute their judgment for that of the State Courts as to what are the laws of the State in any case. A proper adjustment of the two parts of our dual system of government requires this, and the utmost care should be taken not to impair the rightful operations of the State Government, although they may, in a given case, appear to have wrought injustice or oppression. No government is free from such misfortunes occasionally arising, nor should they ever provoke the greater misfortune of the usurpation of unauthorized power by either of the branches of our system — State or Federal. This view of the case disposes of it; for when the petitioner was, by lawful process, arraigned upon indictment, and by lawful trial convicted of a crime in a court having the lawful right to declare his conduct to have been a crime, he has had “due process of law,” and has been made to suffer “according to the law of the land,” albeit the court may have made a mistake of fact or law in the progress of that particular administration of the “law of the land.” That mistake we cannot correct, nor can any court after final judgment; and this itself is one of the fundamental principles essential to be preserved as one of the elements of that “due process of law” secured by the Fourteenth Amendment.

Perhaps this judgment should end here, and that, technically, nothing more should be said. Yet it may be due to counsel to give some response to their extended and really very able arguments upon other questions which they think are involved, and which they wish to have decided in this case. As we do not refuse their motion to discharge the petitioner because of any want of jurisdiction, but only because we decide that he has not been convicted without due process of law, as he alleges, it may not be improper, and, at least, it will emphasize our judicial allegiance to the principle already adverted to of the conclusiveness, as a matter of evidence, of the verdict against him, if we say that but for that allegiance we should have no difficulty in thinking that King has been wrongfully convicted. Not because he has any guaranty under the Federal or State Constitutions against a law denouncing him and punishing him for a nuisance in working on Sunday; for he has not. It was a belief of Mr. Madison and other founders of our Government that they had practically established absolute religious freedom and exemption from persecution for opinion's sake in matters of religion; but while they made immense strides in that direction, and the subsequent progress in freedom of thought has advanced the liberalism of the conception these founders had, as a matter of fact, they left to the States the most absolute power on the subject, and any of them might, if they chose, establish a creed and a church, and maintain it. The most they did, as they confessed, was to set a good example by the Federal Constitution; and happily that example has been substantially followed in this matter, and by no State

more thoroughly than Tennessee, where sectarian freedom of religious belief is guaranteed by the Constitution ; not in the sense argued here, that King as a Seventh-day Adventist, or some other as a Jew, or yet another as a Seventh-day Baptist, might set at defiance the prejudices, if you please, of other sects having control of legislation in the matter of Sunday observances, but only in the sense that he should not himself be disturbed in the practices of his creed ; which is quite a different thing from saying that in the course of his daily labor, disconnected with his religion, just as much as other people's labor is disconnected with their religion, labor not being an acknowledged principle or tenet of religion by him, nor generally or anywhere, he might disregard laws made in aid, if you choose to say so, of the religion of other sects. We say, not acknowledged by him, because, although he testifies that the fourth commandment is as binding in its direction for labor on six days of the week as for rest on the seventh, he does not prove that that notion is held as a part of the creed of his sect and religiously observed as such, and we know, historically, that generally it has not been so considered by any religionists or their teachers. But if a non-conformist of any kind should enter the church of another sect, and those assembled there were required, every one of them, to comply with a certain ceremony, he could not discourteously refuse because his mode was different, or because he did not believe in the divine sanction of that ceremony, and rely upon this constitutional guaranty to protect his refusal. We do not say Sunday observance may be compelled upon this principle, as a religious act, but only illustrate that the constitutional guaranty of religious freedom does not afford the measure of duty under such circumstances, nor does it any more, it seems to us, protect the citizen in refusing to conform to Sunday ordinances. It was not intended to have that effect any more than under our Federal Constitution the polygamist may defy the Christian laws against bigamy upon the ground of religious feeling or sentiment, the freedom of which has been guaranteed.

Nor do we believe King was wrongfully convicted because Christianity is not a part of the law of the land ; for in the sense pointed out by Mr. Chief-Justice Clayton in *State vs. Chandler*, *supra*, and more recently by Dr. Anderson, a clergyman, before the Social Science Association [20 Alb. L. J., 265, 285], it surely is ; but not in the dangerous sense so forcibly combated by Mr. Jefferson and other writers following him in the controversy over it. The fourth commandment is neither a part of the common law or the statute, and disobedience to it is not punishable by law ; and certainly the substitution of the first day of the week for the seventh as a part of the commandment has not been accomplished by municipal process, and the substitution is not binding as such. The danger that lurks in this application of the aphorism has been noted by every intelligent writer under my observation, and all agree that this commandment, either in its original form, as practiced by petitioner, or in its substituted application to the first day of the week, is not more a part of our common law than the doctrine of the Trinity or the apostles' creed. Nevertheless, by a sort of factitious advantage, the observers of Sunday have secured the aid of the civil law, and adhere to that advantage with great tenacity, in spite of the clamor for religious freedom, and the progress that has been made in the absolute separation of Church and State ; and in spite of the strong and merciless attack that has always been ready, in the field of controversial theology, to be made, as it has been made here, upon the claim for divine

authority for the change from the seventh to the first day of the week. Volumes have been written upon that subject, and it is not useful to attempt to add anything to it here. We have no tribunals for its decision, and the efforts to extirpate the advantage above mentioned by judicial decision in favor of a civil right to disregard the change, seem to me quite useless. The proper appeal is to the Legislature. For the courts cannot change that which has been done, however done, by the civil law in favor of the Sunday observers. The religion of Jesus Christ is so interwoven with the texture of our civilization and every one of its institutions, that it is impossible for any man or set of men to live among us and find exemption from its influences and restraints. Sunday observance is so essentially a part of that religion that it is impossible to rid our laws of it, quite as impossible as to abolish the custom we have of using the English language, or clothing ourselves with the garments appropriate to our sex. The logic of personal liberty would allow, perhaps demand, a choice of garments, but the choice is denied. So civil or religious freedom may stop short of its logic in this matter of Sunday observance. It is idle to expect in government perfect action or harmony of essential principles, and whoever administers, whoever makes, and whoever executes the laws, must take into account the imperfections, the passions, the prejudices, religious or other, and the errings of men because of these. We cannot have in individual cases a perfect observance of Sunday, according to the rules of religion; and, indeed, the sects are at war with each other as to the modes of observance. And yet no wise man will say that there shall be, therefore, no observance at all. Government leaves the warring sects to observe as they will, so they do not disturb each other; and as to the non-observer, he cannot be allowed his fullest personal freedom in all respects; largely he is allowed to do as he pleases, and generally there is no pursuit of him, in these days, as a mere matter of disciplining his conscience; but only when he defiantly sets up his non-observance by ostentatious display of his disrespect for the feelings or prejudices of others.

If the human impulse to rest on as many days as one can have for rest from toil, is not adequate, as it usually is, to secure abstention from daily vocations on Sunday, one may, and many thousands do, work on that day, without complaint from any source; but if one ostentatiously labors for the purpose of emphasizing his distaste for or his disbelief in the custom, he may be made to suffer for his defiance by persecutions, if you call them so, on the part of the great majority, who will compel him to rest when they rest, as it does in many other instances compel men to yield individual tastes to the public taste, sometimes by positive law, and sometimes by a universal public opinion and practice far more potential than a formal statute. There is scarcely any man who has not had to yield something to this law of the majority, which is itself a universal law from which we cannot escape in the name of equal rights or civil liberty. As before remarked, one may not discard his garments and appear without them, or in those not belonging to the sex, and this illustration is used rather than others frequently given based on the laws of sanitation, education, immoral practices, cruelty, blasphemy, and the like, because it seems somewhat freer from the inherent element of injury to others, and contains likewise the element of a selection that would seem to be harmless in itself; so that it illustrates, pertinently, that one must observe the general custom as to a day of public rest, just as he must reasonably wear the garments of

his sex selected by general custom. Therefore, while out of our 64,000,000 people there are a comparatively very few thousands who prefer the seven h day to the first as a day of rest and for religious observances, according to the strict letter of the commandment, and who, possibly with good reason, resent the change that has been made as being without divine sanction, the fact remains that the change has been made by almost universal custom, and they must conform to it so far as it relates to its quality as a day of public rest.

And here it may be noted that sometimes too little heed is given in the consideration of the question to this quality of associated rest from labor. It is not altogether an individual matter of benefit from the rest, for undoubtedly to each individual one day of the seven would answer as well as another; but it is the benefit to the population of a general and aggregate cessation from labor on a given day, which the law would secure, because for good reason, no doubt, found in our practice of it, it is beneficial to the population to do this thing, and they have established the custom to do it. The fact that religious belief is one of the foundations of the custom is no objection to it, as long as the individual is not compelled to observe the religious ceremonies others choose to observe in connection with their rest days.

As we said in the outset, not one of our laws or institutions or customs is free from the influence of our religion, and that religion has put our race and people in the very front of all nations in everything that makes the human race comfortable and useful in the world. This very principle of religious freedom is the product of our religion, as all of our good customs are; and if it be desirable to extend that principle to the ultimate condition that no man shall be in the least restrained, by law or public opinion, in hostility to religion itself, or in the exhibition of individual eccentricities or practices of sectarian peculiarities of religious observances of any kind, or be fretted with laws colored by any religion that is distasteful to anybody, those who desire that condition must necessarily await its growth into that enlarged application. But the courts cannot, in cases like this, ignore the existing customs and laws of the masses, nor their prejudices and passions even, to lift the individual out of the restraints surrounding him because of those customs and laws, before the time has come when public opinion shall free all men in the manner desired. Therefore it is that the petitioner cannot shelter himself just yet behind the doctrine of religious freedom in defying the existence of a law and its application to him, which is distasteful to his own religious feeling or fanaticism, that the seventh day of the week, instead of the first, should be set apart by the public for the day of public rest and religious practices. That is what he really believes and wishes, he and his sect, and not that each individual shall select his own day of public rest and his own day of labor. His real complaint is, that his adversaries on this point have the advantage of usage and custom, and the laws founded on that usage and custom, not that religious freedom has been denied to him. He does not belong to the class that would abrogate all laws for a day of rest, because the day of rest is useful to religion, and aids in maintaining its churches; for none more than he professes the sanctifying influence of the fourth commandment, the literal observance of which, by himself and all men, is the distinguishing demand of his own peculiar sect. His demand for religious freedom is as disingenuous here as is the argument of his adversary sects that it is the economic value of the day of rest,

and not its religious character which they would preserve by civil law. The truth is, both are dominated by their religious controversy over the day, but like all other motives that are immaterial in the administration of the law, the courts are not concerned with them. Malice, religious or other, may dictate a prosecution; but if the law has been violated, this fact never shields the law-breaker. Neither do the courts require that there shall be some moral obloquy to support a given law before enforcing it, and it is not necessary to maintain that to violate the Sunday observance custom [the act] shall be of itself immoral, to make it criminal in the eyes of the law. It may be harmless in itself (because, as petitioner believes, God has not set apart that day for rest and holiness) to work on Sunday; and yet, if man has set it apart, in due form, by his law, for rest, it must be obeyed as man's law if not as God's law; and it is just as evil to violate such a law, in the eyes of the world, as one sanctioned by God—I mean just as criminal in law. The crime is in doing the thing forbidden by law, harmless though it be in itself. [U. S. *vs.* Jackson, 25 Fed. Rep., 548; *Re McCoy*, 31, Fed. Rep., 794; S. C., 527, U. S. 731, 733.] Therefore, all that part of the argument that it is not hurtful in itself to work on Sunday, apart from the religious sanctity of the day, is beside the question; for it may be that the courts would hold that repeated repetitions of a violation of law forbidding even a harmless thing, could be a nuisance as tending to a breach of the peace. [2 Bish Cr. L., section 965; 1 Ib., section 812.] Neglecting to do a thing is sometimes a nuisance. [1 Russ. Cr., 318.] That is to say, a nuisance might be predicated of an act harmless in itself, if the will of the majority had lawfully forbidden the act, and rebellion against that will would be the *gravamen* of the offense; or to express it otherwise, there is in one sense a certain immorality in refusing obedience to the laws of one's country, subjection to which God himself has enjoined upon us.

But whatever plenary power may exist in the State to declare repeated violations of its laws and the usages of its people a nuisance and criminal, until the case of *Parker vs. State*, *supra*, and until this case of *King*, to which we yield our judicial obedience, there seems not to have been any law, statute or common, declaring the violation of the statutes against working on Sunday a common nuisance. Mr. Chief-Justice Ruffin has demonstrated, we think, that there was no such common law of the mother State of North Carolina, from which we have derived our common law and these Sunday statutes. [M. & V. Code, 2,289, 2,009, 2,010, 2,011, 2,012, 2,013; Act N. C., 1,741; 1 Scott Rev., 55; Ib., 795; Car. & Nich., 638; *State vs. Williams*. 4 Ired., 400; *State vs. Brooksbank*, 6 Ired., 73.] The case of *State vs. Lorry* [7 Bax. 95] is in accordance with these authorities, and I may say that, with some patience, I have traced as far as I have been able the common law authorities, and if the judgment rested with me, should say that there is not any foundation in them for the ruling that it is a common law nuisance to work in one's fields on Sunday, and the Supreme Court of North Carolina so decided. Maul, J., said in *Rawlins vs. West Derby* [2 C. B. 74] that "in the time of Charles II, an Act of Parliament passed providing that certain things that formerly might have been done on Sunday should no longer be done on that day, all other things being left to the freedom of the common law."

This act was not adopted by North Carolina or by Tennessee as part of their common law, but was by North Carolina and afterward by Tennessee substantially re-enacted, and is the foundation of our Sunday laws. The

precedent for a common law indictment taken by Chitty from a manual known as the "Circuit Companion," was omitted from subsequent editions. [2 Chit. Cr., 6 Ed. 20 and note.] And while many American courts have laid hold of the statements in the old text writers, that such an indictment was known at common law, and upon their authority subsequent writers have proceeded to state the text law to be so, it is quite certain that no adjudicated case in England can be found to establish the statement that, strictly and technically, there was any such offense known to the common law. In this sense it may be said that King was wrongfully convicted, the State *vs.* Lorry wrongfully overruled, and Parker *vs.* State wrongfully decided; but it does not belong to this court to overrule these decisions, and it does belong to the State Court to make them, and King's conviction under them is "due process of law."

Remand the prisoner.

FREEDOM.

Is true freedom but to break
Fetters for our own dear sake,
And with leathern hearts forget
That we owe mankind a debt?
No; true freedom is to share
All the chains our brothers wear,
And, with heart and hand, to be
In earnest to make others free.



They are slaves who fear to speak
For the fallen and the weak;
They are slaves who will not choose
Hatred, scoffing, and abuse,
Rather than in silence shrink
From the truth they needs must think;
They are slaves who dare not be
In the right with two or three.



—James Russell Lowell.

It is incumbent on the authors of persecution previously to reflect whether they are determined to support it in the last extreme. They excite the flame which they strive to extinguish; and it soon becomes necessary to chastise the contumacy, as well as the crime, of the offender. The fine, which he is unable or unwilling to discharge, exposes his person to the severity of the law; and his contempt of lighter penalties suggests the use and propriety of capital punishment.

—Gibbon.

RELIGIOUS INTOLERANCE IN THE REPUBLIC.

CHRISTIANS PERSECUTING CHRISTIANS IN TENNESSEE.

[THE following matter constitutes the editorial in the December issue of the *Boston Arena* :—]

On the 18th of last July, a moral crime was committed in the State of Tennessee; a crime which should fire with indignation every patriot in the land; a crime over which bigotry gloats and fanaticism exults; a crime so heinous in its character and so vital in the far-reaching principles involved, that any man acquainted with the facts is recreant to his manhood if he remains silent; a crime which reveals in a startling manner the presence and power in our midst of that spirit of intolerance which almost two thousand years ago pursued to the cross, nay, further, taunted in the throes of death's agony, a great, serene, God-illuminated soul. The great Prophet of Nazareth had asserted the rights of man, and had declared that man was to be judged by the fruits shown in life, and not by observances of rites, forms, or dogmas. He had declared that the Sabbath was made for man, and not man for the Sabbath. He had given as the supreme rule of life for all true disciples a simple but comprehensive law, "Whatsoever ye would that men should do to you, do ye even so to them." That was the sign by which in all ages his disciples should be known, and none knew better than this pure and tender soul that that rule carried out would forever crush the spirit of persecution and intolerance, which from the dawn of time had fettered thought and slain the noblest children of men.

The crime committed in Tennessee was very similar to the crime committed in Jerusalem more than eighteen hundred years ago. The animating spirit was precisely the same. The crime committed in Tennessee was, moreover, exactly similar in nature; that is, it in-

volved precisely the same principles as those crimes against which enlightened thought to-day recoils, and which lit up the long night of the Dark Ages with human bonfires, and drove to death for conscience' sake the noblest hearts and purest lives of Europe, because the victims could not conscientiously conform to the dogmas which the vast majority believed to be the will of God. Strange, indeed, that the closing years of the nineteenth century should witness, flaming forth, the same spirit of insane fanaticism against which the Reformation made such an eloquent, and, for a time, successful protest. And in the present instance, as in the religious persecutions of the past, the crime has been committed in the name of justice. Victor Hugo, in speaking of the social structure in France in 1760, said : "At the base was the people ; above the people, religion represented by the clergy ; by the side of religion, justice represented by the magistracy. And at that period of human society, what was the people ? — It was ignorance. What was religion ? — It was intolerance. And what was justice ? — It was injustice." And so I think the historian of the future, from the noble heights of a golden-rule-permeated civilization, will point to such deeds as have recently been committed in Tennessee, as illustrating the cruel indifference of a pretended civilization which could tolerate such enormities without a universal protest.

I will now briefly outline the facts involved in this crime against justice and liberty, which has been committed in the name of law and through the instrumentality of a spirit which is the unmistakable and undeviating mark of savagery, as opposed to the spirit of Christ ; a spirit which is at the present time exerting its power through organization, and like a canker worm at the tap root of the giant oak, is assailing the vitals of free government ; a spirit which I profoundly believe is to-day the most dangerous, as it is the most insidious, evil which menaces republican government.¹

¹ This intolerant spirit has in recent years crystallized itself into an organization known as the American Sabbath Union. It is not American, nor does it uphold the Sabbath. It is the true child of paganism, and seeks to establish in this republic the odious laws of the sun-worshipping Christian-pagan Constantine, and to persecute with the ferocity of a Nero all who do not believe as do these narrow-minded children of paganism. This body is seeking everywhere to close the museums of art on Sunday, that the poor may be denied the education and the pure pleasure of these noble educators. It was the activity of this organization which made it possible to carry the Sunday-closing clause of the World's Fair bill, which, should it prove effective, would rob hundreds of thousands of poor men, women, and working-girls of the inestimable educational benefits of this great world of instruction ; and, what is more, it is indisputably working to change the republic of our fathers into a theocracy by

The facts relating to the persecution in Tennessee are briefly as follows :—

At the town of Paris, Henry Co., Tenn., on the 18th of July, 1892, three conscientious, law-loving, God-fearing Christian men, who had been lying in jail for a month and a half, were marched through the streets, in company with some colored criminals, and put to work shoveling on the common highway. All were men of families. One was an old man of sixty-two years; another was fifty-five years old. The State's attorney, who, in the interest of fanaticism, prosecuted these men with the same ferocity as a blood-hound would exhibit in attacking its victim, was constrained to admit that *aside from the crime charged, that of working on Sunday after they had religiously worshiped God on Saturday (their Sabbath), they were otherwise good citizens.* It will be noted that these men had not robbed their fellow-men, either legally or illegally; they were not extortioners; they were highly moral and exemplary citizens. Moreover, they were God-fearing men. They belonged to the little band of earnest believers in Christ, known as Seventh-day Adventists, a body of Christians who find in the Bible an injunction which they hold to be divine, requiring them to work six days in the week and to keep holy the seventh day, and who do not find any passage repealing this command in the Holy Scriptures. These sincere men worshiped God according to his word as they understood it, by keeping holy the Sabbath, or seventh day of the week. But they were poor men. Fifty-two days in the year were all the rest they could afford, if the wolf of want was to be kept from the door. Now, the Constitution of Tennessee declares that, "All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience; . . . that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given to any religious establishment or mode of worship."

From this it would seem self-evident that any law which might operate so as to render it impossible for God-fearing citizens to support themselves and families without doing violence to their consciences by having to disobey what they believed to be God's imperative command, would be unconstitutional and consequently

uniting Church and State, even in the light of all past history, which at all times has proven that such a union corrupts religion and assassinates liberty. This organization should be opposed at all times and in every rightful way, for it is no less the foe of pure religion and true Christianity than it is the enemy of liberty and justice.

void; while it will appear equally evident that if any percentage of the population of Tennessee believe that God had commanded them to keep holy any day other than the first day of the week, to compel these persons to desist from work on the first day would be to compel poor people in the present fierce battle for livelihood to work on the day they believe holy, as to rest over one hundred days in the year would mean starvation to them and their loved ones. I do not see how any mind that is not blinded by bigotry can escape this conclusion. With this thought in mind, let us proceed.

In Tennessee, as in many of our Eastern States, there are ancient statutes, relics of a savage past, statutes which partake of the nature of the Blue Laws of colonial days. These enactments have for generations been practically obsolete. Hate, spite, and fanaticism have occasionally resurrected them; but constitutional guarantees, the enlightened sentiment of the age, and competent judges have usually rendered them of no effect. The law in Tennessee, which is of this nature, was an heir-loom from the theocracy of England, coming to Tennessee through North Carolina. It forbids any Sunday work, "except acts of real necessity" or "of charity," and prescribes a fine as punishment.¹ If the fine is not paid, the convicted party is to be imprisoned. Another statute declares that any one who maintains a nuisance may be fined one hundred dollars; while according to recent rulings of the State courts in Tennessee, a succession of such offenses as working on Sunday is a nuisance and is indictable.

On May 27 the Grand Jury of Henry county indicted five farmers living on small places near the village of Springville, Tenn. The cases were tried in Paris before a certain Judge W. H. Swiggart. The prosecution did not attempt to prove that any one was disturbed by the work of these poor farmers; indeed, the witnesses for the State each declared that he was not disturbed. One of the prisoners had been seen ploughing strawberries on Sunday, another cutting sprouts, and still another loading wood on a wagon. The accused did not employ counsel, but each made a simple statement of his case, relying upon the guarantee of the Constitution and the intelligence of the judge and jury for acquittal. The following is the statement made by Mr. W. S. Lowry, whose case came first: —

"I would like to say to the jury that, as has been stated, I am a Seventh-day Adventist. I observe the seventh day of the week as the Sabbath. I read my Bible, and my convictions on the Bible are that the seventh day of the week is the Sabbath, which comes on Saturday. I observe that day the best I know how. Then I claim the God-given

¹ See Appendix, p. 11.

right to six days of labor. I have a wife and four children, and it takes my labor six days to make a living. I go about my work quietly, do not make any unnecessary noise, but do my work as quietly as possible. It has been proved by the testimony of Mr. Fitch and Mr. Cox, who live around me, that they were not disturbed. Here I am before the court to answer for this right that I claim as a Christian. I am a law-abiding citizen, believing that we should obey the laws of the State; but whenever they conflict with my religious convictions and the Bible, I stand and choose to serve the law of my God rather than the laws of the State. I do not desire to cast any reflections upon the State, nor the officers and authorities executing the law. I leave the case with you."

This simple, eloquent, and noble statement of a high-minded Christian gentleman would have made an impression on any mind not blinded by bigotry, and would have rendered just any heart not dwarfed and shriveled by religious fanaticism. But like the ill-fated Huguenots of the sixteenth century, these victims of religious prejudice lacked broad-minded, liberty-loving, and Constitution-revering patriots for judge and jurors. The prosecuting attorney struck the key-note of the true animus of the prosecution when, in closing his speech, he made use of the following significant expression:¹—

"I cannot conceive that a man who claims to be a peaceable, law-abiding citizen can go on disregarding the day openly in the face of the law, openly in the face of the protections that are thrown around the holy Sabbath, *as we believe it and hold it*, and protected by the laws of this State; and this is a question that I presume you, gentlemen, will not have any difficulty in coming to a decision upon."²

¹ It is a pity that some one did not point out to this gentleman the impropriety of a lawyer seeking to disregard the Constitution of his State by arguing in behalf of a statute which essentially nullified a sacred guarantee; for it is clear that if these men were to save their families from starvation, they must disregard the State law in order to enjoy the religious freedom guaranteed by the State Constitution.

² In striking contrast, says the protest sent out by the National Religious Liberty Association in its appeal to thoughtful Americans, are the following words of President Fairchild, of Oberlin College: "It is often urged that the right of private judgment, as now maintained, in reference to obedience to the laws of the land, will subvert government, and introduce confusion and anarchy. . . . The danger, however, is greatly over-estimated. Government is never the gainer in the execution of a law that is manifestly unjust. . . . Conscientious men are not the enemies but the friends of any government but a tyranny. They are its strength, and not its weakness. Daniel, in Babylon, praying, contrary to the law, was the true friend and supporter of the government; while those who, in their pretended zeal for the law and the constitution, would strike down the good man, were its real enemies. It is only when government transcends its sphere that it comes in conflict with the consciences of men"—*Fairchild's Moral Philosophy*, pp. 184, 185

The accused were promptly found guilty by the jury, and on refusing to pay the unjust fine¹, were remanded to jail on June 3, where they remained for over forty days.² The sheriff had a higher conception of justice than the judge. He remarked to the latter that the convicted were "sincere in their belief." "*Let them educate their consciences by the laws of Tennessee,*" exclaimed this judge, who had sworn to uphold that Constitution which declares that —

"No human authority can in any case whatever control or interfere with the rights of conscience," and that "no preference shall ever be given by law to any religious establishment or mode of worship."

After lying in jail for over forty days, three of these conscientious, upright citizens were taken out in the chain-gang with three negro criminals who had been sentenced for drunkenness, shooting in the street, and fighting the city marshal, and set to work on the public highway. What a humiliating spectacle to a justice and liberty-loving American! Three upright, noble-souled men, who, like the early Christians and the children of the Reformation, were loyal to the voice of conscience, were thus associated with depraved and brutalized criminals.

The outrage might not call for such extended notice, were it not for the fact that in recent years in Tennessee and Arkansas these conscientious, Christian people, known as Adventists, have been systematically persecuted. The case above noted is only one of a number of similar instances where pure-hearted, Christian people have been cruelly persecuted for conscience' sake; and it would seem evident, from the systematic prosecutions and the heartless ferocity with

¹ The reason for not paying these fines is given by one of the victims, in the following language: "We did not pay our fines and costs, which amounted to about twenty-five dollars each, because we considered them unjust; and besides if we had paid them and returned to our work, we would have been re-arrested, and thus compelled to spend all the little property we own in paying fines."

² While these men were in prison for conscience' sake, the following advertisement appeared in the official paper of Henry county, Tennessee: "On Sunday next there will be a basket picnic at Hollow Rock. The P. T. & A. Railway will give an excursion rate of fifty cents for the round trip from Paris. The train leaves Paris at 9.45 A. M., and returning, leaves Hollow Rock at 5.00 P. M." A further illustration of the real nature of this religious persecution will be found in the facts set forth in a letter written by one of the victims to a brother in Washington, D. C.: "While I am writing to you, it being Sunday, there is a train load of workmen passing in the streets not thirty feet from the jail, going out to work; and they have done so every Sunday since we have been here, and it apparently does not disturb any one. But if a poor Adventist takes his hoe out in his field and labors on Sunday, it disturbs the people for miles around."

which these just and upright persons have been pursued, that they are victims of an organized effort, which has for its ultimate aim the securing of series of judicial rulings calculated to further aid the determined effort being made to unite Church and State and abridge the rights of American citizens. Against the infamy of these persecutions I wish to raise my voice in indignant protest. My whole soul revolts at the barbarism and ferocious savagery which seeks by resurrecting obsolete laws to re-enact in a measure the tragedies of the past, and which through legal technicalities ignore the constitutional guarantee of Tennessee. It is a shame, a crying shame, that such insane fanaticism, such anti-Christian intolerance, should flourish at this late day; and doubly shameful is it that our sense of justice and love of liberty are so benumbed by conventional hypocrisy that we do not as a nation rise up against such liberty-destroying inhumanity. To me there is nothing so terrible as the spectacle of just and upright men suffering as criminals. Think of that sixty-five-year old, silver-haired father, who had harmed no one, who had committed no crime, who had striven to follow the Golden Rule as a line of conduct for life, being driven in a chain-gang with hardened, brutalized negro criminals simply because of his sublime loyalty to what he conceived to be right. Think of this high handed infamy, and remember that this crime against liberty, this crime against human rights, was perpetrated in the name of law, and instigated by persons who *impiously* claim to be Christians.

The persecution of Jesus by the Pharisees of his day finds its parallel in the persecution of the Seventh-day Adventists by those who masquerade under his name to-day. And yet these same sleuth-hounds of bigotry call themselves Christians! Let us see how their actions square by the Golden Rule, which Jesus gave as the great basic principle of moral government.

Let us suppose that in Louisiana, for example, the Catholics, being numerically in the majority, should enact a statute that on certain days made holy by their church, all men must abstain from work "other than acts of real necessity." Let us suppose that Protestants refuse to keep these days; first, because they denied the right of the Church to canonize men or make holy days; and, secondly, because the fierce struggle for bread made it imperative that they work. Now let us further suppose that a number of the most upright citizens openly disregarded this unjust statute, and for this violation were dragged to prison, doomed to lie in jail, and finally put to work in New Orleans in the chain-gang with morally debased criminals.

Would not there be a mighty uprising over the length and breadth of the land at such an un-American and iniquitous enactment, which so clearly trampled on the right of conscience and disregarded the spirit of free government? "Whatsoever ye would that men should do to you, do ye even so to them." Jesus taught this as a cardinal truth, the sum of laws and precepts. Are persecutors of these Seventh-day Adventists Christians?—No, a thousand times, no! They are essentially pagan. Apollo-loving *Constantine*, and not the tolerant and ever-compassionate *Jesus*, is their model. But let us pursue this thought one step farther. Suppose that in Michigan, where the Seventh-day Adventists have some strength, they should be able to combine with the Hebrews, and were so disposed, and that through such a combination they were enabled to enact a law compelling all citizens of Michigan to rest on the seventh day. Would our Protestant and Catholic citizens peaceably acquiesce in such a statute? Would not our people call upon the Constitution to nullify such a wrong? Would we not hear on every hand that to compel people to keep Saturday would be equal to forcing a large per cent of them to do violence to their consciences by breaking Sunday, as a comparatively few could rest one hundred days in the year and yet earn a livelihood? And yet such a case would be exactly analogous to the persecutions now being carried on by persons who insult Jesus by calling themselves Christians. No, Gentlemen, I grant you are the legitimate children of the holy(?) Inquisition, but your action will not square by the Golden Rule.

Poor Mr. King, of whom I have written before, was pursued with the relentless ferocity supposed to be characteristic of demons, until death came to his relief. He, and these new victims of religious intolerance belong to the chosen band of royal souls who in all ages have been persecuted for conscience' sake. Of that band Jesus was a conspicuous member. He broke the Sabbath as the Pharisees held it, and was pursued by the Sabbath Union in his day, even to the cross. The early Christians in the days of Nero followed the dictates of their consciences, and for this were burned and torn to pieces. The noble spirits, yea, the chosen souls, of the Dark Ages, likewise followed the dictates of conscience, and for their splendid and sublime loyalty to what they conceived to be the truth, were burned, racked, and destroyed in a thousand different ways. Roger Williams followed the same guiding star of conscience in matters of religion, and as a result was banished from the Massachusetts Colony. All of these persons are now popularly regarded as martyrs for truth,

liberty, and right. The spirit manifested by their persecutors is abhorrent to all broad-minded and intellectually developed men and women. These last victims to the age-long spirit of intolerance hold the same position as was formerly occupied by the martyrs and heroes for conscience' sake, whose privations and heroic deaths form luminous examples of high thinking and noble acting amid the gloom of the past.

The secular press of the land, with many notable exceptions,¹ has paid little heed to these persecutions.

¹ Below I give some protests made editorially by leading papers. Few, however, of these papers have made the cause of the oppressed their own cause ; while, on the other hand, the persecutors have relentlessly pursued their evil way.

There can be but one opinion upon this decision among all liberal-minded men. It is odious sophistry ! unworthy of the age in which we live, and under it an American citizen has been condemned to spend the rest of his days in a dungeon, unless he shall stoop to deny the dictates of his own conscience, and dishonor his own manhood.— *New York Commercial Advertiser*.

The keeper of Saturday has an undoubted moral right to his convictions. More than this, his legal right to observe Saturday as a holy day and Sunday as a secular day ought not to be called in question in free America by any civil authority. It would not be in doubt for a moment were it not for the existence of legal anachronisms that should have gone out with the witchcraft laws or, at the latest, with George the Third.— *Boston Daily Globe*.

It seems absolutely incredible that in this age of enlightenment, in these free United States, men should suffer and families be plunged into sorrow because they have exercised a right of conscience guaranteed to them by the Constitution of their country.

The sooner a test is appealed to the highest tribunal in the land for adjudication, the better for the honor of Tennessee and every State ridden by bad laws, passed in violation of individual liberty.— *Chicago Daily Globe*.

Not being able to leave his crops unworked for two days in the week, Mr. King ploughed them on Sunday after having kept the Sabbath the day before. He was arrested under the Sunday law ; and in order to make it effective against him, it was alleged that his work on his farm on Sunday created a public nuisance. On this entirely untenable ground he has been harassed from court to court. He was a poor man, but has been supported by the friends of religious liberty. Mr. King has been greatly wronged, but his only remedy at law is under the law and Constitution of Tennessee. It appears that for the present his remedy is denied him, and, this being the case, he has no better course than to submit to the oppression and go to prison — to the convict camp, if it suits the convenience of his persecutors to send him there.— *St. Louis Republic*.

The principle involved is simple, and its application plain. The State has nothing to do with religion, except to protect every citizen in his religious liberty. It has no more right to prescribe the religious observance of sabbaths and holy days than to order sacraments and to ordain creeds.— *New York World*.

So long as the labor of Adventists on Sunday does not interfere with the rights of the Mosaic and Puritanic people on the same day, the prosecution of them seems neither more nor less than persecution.— *Chicago Tribune*.

People are asking if we are returning to the days of Cotton Mather or the Spanish

Indeed, a general lethargy seems to have overtaken our people and this is the most disheartening symptom present in the body politic at the present time. The day seems to have gone by when the cry of the oppressed or the weak arouses the sense of justice in the hearts of our people. Especially is it sad to see the religious press, supposed to represent the spirit of the Reformation (which struggled against such fearful persecutions of other days), now so silent when fellow-men are being ground between the millstones for conscience' sake. It is true that one of the greatest religious papers, the *Independent*, has spoken grandly for freedom, as will be seen by the following extract :—

“ We have again and again, during the last few years, had occasion to express our profound indignation at the administration of Tennessee law as applied to some country farmers belonging to the Seventh-day Adventist body, who, after having carefully kept the Sabbath on the seventh day of the week, worked in their fields on the first day of the week. This prosecution has been renewed, and three men of families, one fifty-five and another sixty-two years of age, were convicted, and have, during the summer and autumn, been working out their fine, being set to work with criminals at shoveling on the common highway. They refused to pay their fine, declaring that it was unjust, and that they were liable to be arrested again as soon as they were released. We have said before, and we say again, that this is bad law, bad morals, and bad religion.”

Another religious organ, the *Baptist Church Bulletin*, gives these suggestive words of warning :—

Let us be careful how we let in the camel's nose of religious legislation, lest the brute crowd his bulky form in and occupy the whole shop. If the law by which these men were legally imprisoned be a righteous law, then may any State, nation, or country set up a religious creed and enforce it; then France treated properly the Huguenots; Russia, the Jews; and early New England and Virginia, the Baptists and Quakers. Protestant America had better be careful how she lays foundations for other men to build upon. Rome has as good a right to build in her way as we have to build in our way.

As a rule, however, the religious press has been strangely silent.

A nation can sometimes afford to err on the side of mercy, but no nation can afford to be unjust to her lowliest citizen. I am one of those who believe most profoundly that every sin, whether committed by an individual, a State, or a nation, brings its own consequence as

Inquisition, that faithful, law-abiding citizens must be fined or driven from the country when their only offense consists in quietly carrying out the convictions of conscience.— *Louisville Courier-Journal*.

inevitably as the violation of a physical law brings its evil results. I believe that nations commit suicide no less than individuals, and that wrong done by nations will result in evil consequences; and believing this, while loving the great republic, I cannot remain silent when she is unjust or when she wrongs, in the name of law, upright citizens because they do not believe as the majority believe. No State or nation can afford to allow a law not based on justice to remain upon the statute books. And when our republic so far forgets the high ideals of justice, liberty, and human rights, which made her the flower of the ages, as to permit unjust laws to be passed, or cruel, obsolete statutes to be resuscitated in the interests of any class, any sect, or any religion, she makes law-breaking citizens, and plants in her own breast the seeds of disintegration.¹ B. O. FLOWER.

APPENDIX.

This statement as to *imprisonment*, is a mistake. The mistake is entirely pardonable, however; for as bad as the situation is, as seen by the author, it never occurred to him that the authorities of Tennessee could presume to inflict punishments without any authority of law whatever. Such, however, is the case. And this adds yet a deeper dye to the essential iniquity of the procedure throughout. The facts in the case are these: The Sunday law of Tennessee—the only Sunday law in the statutes of the State—provides only for prosecution before “any justice of the peace in the county” where the work is done: and then provides a penalty of “*three dollars*” only, “one half to the person who will sue for the same, the other half for the use of the county.” This is the punishment, and the only punishment provided in the statute forbidding the “doing or exercising any of the common avocations of life” “on Sunday.” Nor

¹ Since the occurrence of the shameful proceedings which called forth this justly merited condemnation, the grand jury of the same county (Henry county, Tennessee) has summoned a score of witnesses, most of them members of the Seventh-day Adventist church at Springville, to testify against their brethren; and as a result it is reported that ten or more are indicted for performing farm labor on their own premises on Sunday after observing the previous day as the sabbath.

Among the witnesses summoned were a number of children; so that children were compelled to testify against their parents and parents against their children. Inquiries were also made as to whether the women worked on Sunday, and what they did. Among those reported to be indicted is a feeble old man nearing his four-score years.

Their trials are set for the second week in January; and judging from the “due process of law” meted out to their brethren, there awaits them for their loyalty to conscience in this free land, the cell and the chain-gang.—*The National Religious Liberty Association.*

is there any statute there making Sunday work a public or any other kind of "nuisance."

Yet all this is ignored by the authorities of Tennessee, and their own will is set up and executed in place of any statute. Where the statute knows no such crime as "public nuisance" in connection with Sunday work, the authorities create such a crime, and prosecute these Seventh-day Adventists accordingly. Where the statute provides only for prosecution before any justice of the peace of the county, the authorities prosecute the Seventh-day Adventists before the circuit court of the State. Where the statute provides for a fine of three dollars only, the authorities lay upon the Seventh-day Adventists any fine they choose. Where the statute makes no mention of any imprisonment, the authorities inflict upon these Seventh-day Adventists whatever imprisonment they please, in lieu of the fine which they have levied, if the fine is not paid.

All this has been done, and is now being done again, without any statutory authority, but solely upon the authority of a statement of the Supreme Court of the State, that "Christianity is part of the common law of Tennessee." And this statement was made, and was adopted, and is thus enforced, in the face of the Constitution of that State, which declares "that no preference shall ever be given by law to any religious establishment or mode of worship;" and "no human authority can, in any case whatever, control or interfere with the rights of conscience." And the whole procedure, as it is there carried on, stands confirmed and specifically indorsed by the Circuit Court of the United States for the western district of Tennessee as "due process of law," and this too in spite of the statements by the same court in the same connection, that there is "not any foundation for the ruling" of the Supreme Court of Tennessee "that it is a common law nuisance to work in one's fields on Sunday;" that the man was "wrongfully convicted;" and that the State Supreme Court "wrongfully decided" when it confirmed his conviction by said ruling.

The truth, then, and the sum, of this whole Tennessee procedure is that the only authority for it is a "ruling" of the State Supreme Court, for which there is "not any foundation," in rendering a "wrongful decision," confirming the "wrongful conviction" of a man for doing that which "is harmless in itself," namely, working on Sunday.

And to cap the climax of the whole matter, the Supreme Court of the United States has unanimously sanctioned the doctrine that "Christianity is part of the common law" of the land, and has cited this statement as one of the organic utterances which prove that "this is a Christian nation."

Therefore, as *the courts*, from the lowest to the highest in the land, are on the side of the persecutors, as once more, and in this dear land, "on the side of the oppressors there is power," it is evident that the case richly deserves this withering condemnation and indignant denunciation by the editor of the *Arena*, and that this just judgment needs to be endorsed and emphasized by *the people* of the United States.— *The National Religious Liberty Association.*



"That it might be fulfilled which was spoken by the prophet, ...
He shall not strive, nor cry."

O Freedom ! * * * * *

Thy birthright was not given by human hands :
Thou wert twin-born with man. * *
* * * * *Tyranny himself,*
Thy enemy, although of reverend look,
Hoary with many years, and far obeyed,
Is later born than thou ; and as he meets
The grave defiance of *thine elder eye,*
The usurper trembles in his fastnesses.

Thou shalt wax stronger with the lapse of years,
But he shall fade into a feebler age ;
Feebler, yet subtler. *He shall weave his snares,*
And spring them on thy careless steps, and clap
His withered hands, and *from their ambush* call
His hordes to fall upon thee. He shall send
Quaint maskers, wearing fair and gallant forms,
To catch thy gaze, and uttering graceful words
To charm thy ear ; while his sly imps, *by stealth,*
Twine round thee threads of steel, light thread on thread
That grow to fetters ; or bind down thy arms
With chains concealed in chaplets. Oh ! not yet
Mayst thou unbrace thy corslet, nor lay by
Thy sword ; nor yet, O Freedom ! close thy lids
In slumber ; *for thine enemy never sleeps,*
And thou must watch and combat till the day
Of the new earth and heaven. * * *

William Cullen Bryant.



CHURCH AND STATE

BY JAMES T. RINGGOLD

OF THE BALTIMORE BAR

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PREFACE.

NOTWITHSTANDING the controversial tone of this paper, it is designed to be descriptive, rather than argumentative — to point out the traces of the union of Church and State which persist in American jurisprudence, and to identify them as just what they are.

It is only incidentally that it is made to appear how undesirable a thing this union is. For its undesirability is a postulate of American political thought and needs no demonstration. And if this union survives among us or is intensified, it will only be through our apathy or blindness.

It is important that we should expel what is left of this old pagan idea in our law, because it is not in the nature of such ideas to remain stationary. We have lopped off the branches, but the roots remain, and have of late shown an alarming tendency to sprout afresh.

This, then, is an humble attempt to lay bare some of these roots. The work of extirpation must be left to others.

Baltimore, November, 1892.

J. T. R.

CHURCH AND STATE.

It is a mistake very frequently made to suppose that the idea of basing all government on the consent of the governed is a modern conception. This really involves nothing but a "recurrence to fundamental principles," as Mr. Jefferson would have phrased it. The earliest forms of government could have originated in no other way whatever than in the free and voluntary consent of the governed. The first object of social organization was war, conservative or aggressive, with man or beasts. It was a necessity, and a fighting necessity, that drove men to band together in the origin of nations. The same necessity compelled them to submit to the authority of one of themselves while active fighting was going on. It is preposterous to suppose that this one obtained his place as leader in any other way than by the open and untrammelled choice of his fellows. Moreover, his office was a specified and definite one, like that of the Roman dictator. It was to direct the war. And, as with the dictator, when the war was over, and the occasion for his services ceased, his place was vacant, and at the next outbreak he might or might not be re-elected. There was no government at all in the accepted sense of an organized society, in time of comparative tranquillity, for the simple reason that there was nothing for government to do, social intercourse being practically unknown and private injuries privately avenged.

The advantages of co-operation in fighting having been perceived, the advantages of maintaining an organization in

readiness for fighting at any moment were of course suggested ; and friendship between the warriors grew out of the common interests and perils they had shared. Hence, families began to remain together after the actual fighting which had given occasion for their concentration was over ; and thus the permanent tribe began to be formed.

But the tribe being a social organization for peace as well as war, there must be a ruler for it under both conditions ; and this ruler could never have become such, any more than the ruler for war alone, except through his selection by the tribe. The selection at first was rather in the nature of acquiescence. It was natural that an ambitious man should want to retain power after the occasion was past which had induced the rest to bestow it on him. And it was natural that the rest should concede this ambition of a successful general, seeing that they must have somebody to govern them if they proposed to remain in their closer connection. But that he was liable to be deposed at any time for unfitness, and that his position was vacant at his death, cannot for a moment be doubted.

Personal ambition develops easily into race or family ambition. After being king himself, the warrior longed to know that his son would also be king when he was gone. This is not the place to investigate the origin of the idea of hereditary right. Suffice it to say that being familiarly applied to property, it was easy to extend it to office. But the elective principle could never have been eliminated by this means alone. From attachment to the father and presumed fitness in his son, the people might have tacitly assented to the latter's attempt to fill the place of the former. But they were no more familiar with the principle of the inheritance of property than they were with the principle of confiscation ; and they would have promptly confiscated the kingly office and bestowed it on a deserving third person when a king's son had proven himself unfit to reign, had it not been for the invention of the doctrine of "divine right," and this doctrine

resulted and could only result from the union of Church and State.¹

Hence, government had always existed by reason of the consent of the governed, until the union of Church and State. The denial of the divine right of the king, made by our American forefathers, was simply the re-assertion of the original separation of the two. It is a logical necessity that the advocates of this union should deny that the consent of the governed is to be any longer regarded as the basis of government.

How did the union of Church and State come about?—In this very obvious way. It owed its birth to the spirit of usurpation which it afterward served so well. As long as the king kept within the limits of his powers either as to manner or time, he needed no artificial terrors to sustain him. It was only when he wanted to retain his place after his time had expired, or his incompetency was recognized; or when he wanted to exercise some unconstitutional prerogative; or when he wished to transmit his honors to his heir without reference to the popular will; or to do some other wrong,—then alone it was that he found it expedient to appeal to the priest to aid him in terrifying the people into submission. And the priest, too, sometimes wanted his tithes more promptly paid, or some questioner of his position, some introducer of strange gods and rival priesthoods, punished, when he would naturally appeal to the State. And thus the two ruling influences were drawn closer and closer together.

To one who studies the genesis of the religious feeling, apart altogether from the question of revelation, the persistence of the idea of the union of Church and State is easily intelligible. The authority of one man over his fellows

¹ Strictly speaking, it was Religion and State, as at that time, of course, there was no organized Church any more than there was an organized State. But the principle and the practice are the same throughout, in all its phases; from origin to end it is properly and fitly described as the union of Church and State.

rested at first on his power, real or assumed. The one who was strongest or most cunning, or both, naturally took the lead, and commanded the allegiance of the rest, since fighting wild beasts or men was the principal business of primitive society. This man was the State. But this man was the guide and protector of the others only in the affairs of the external and visible world.

But there was also an invisible world. Here is a tree cut down ; some man has been here. Here is a tree riven by lightning ; some magnified man has surely hurled the bolt. So the sailor feared the deity which might shipwreck him, and was grateful to that which saved him from the storm. The magnified man who sent the lightning against the tree, the uplifter of the waves, were evidently to be dreaded. Here, then, was a want of human nature to be satisfied. And just as soon as society began to take on organized forms, it was inevitable that a class should be evolved whose members should especially charge themselves with satisfying the spiritual wants of the rest. This class was that of the priests.

Now, just as the chief held his position because of his ability to control the physical forces which might assail the community, so the authority of the priest was based on his assumed acquaintance with the spiritual forces which were also full of capacity for evil, though at times beneficent in their dealings with the people. Thus the Church came into power along with the State. And the source of the power of each was the belief of the masses that each had behind it a power which it could turn as it willed.

Now, the ordinary man regarded the king with the same mingled feelings of fear and affection which he felt for the "spirits"—with fear, not only because the king was individually his superior, but also because behind the king was the force of community, which he could turn at will against internal resistance to his authority as well as against external foes of the State ; with affection, because if the subject

obeyed and served the king, the king's superior abilities and the force of the community which was at the king's command, might at any time be invoked for the protection and behoof of the subject, as against foreign aggression or the trespass of a fellow-citizen.

As the people dreaded in general the supernatural punishments wielded by the priest rather more than they did the temporal penalties which alone were at the command of the king, it followed that the king had more frequently to appeal to the Church than the Church to the king. And it is safe to say that every such appeal was made the occasion of a fresh encroachment on the kingly "preserve," until the Church not only substituted her sanction for the will of the people as the basis of the king's right to rule, but also asserted a discretionary authority over his actions, even to the extent of removing him for contumacy. Thus was "divine right" fully established, and the king now ruled "by the grace of God," without any reference whatever to the will of the people. But if the union of Church and State thus originated in a felt necessity by each for the support of the other, it remains a fact for no other reason. Neither dares to let go of the other's hand for fear that it cannot stand alone.

Men may affirm or deny as they please whether it would not have been better upon the whole for the race if the supposed necessity for the union of Church and State had never been recognized. But the recognition is a fact, and the question of its past expediency is immaterial, as *the point is* that with religion, as the Founder of our religion taught it, such a union is utterly inconsistent. To grasp fully the significance of this last proposition, we may divide religious systems into three great groups, pagan, Hebrew, and Christian. And first we may note some of the results which followed under the pagan system of alliance between Church and State.

Two etymologies of the word *religio* have been suggested. The first derives it from *re*, "back," and *ligo*, "to bind,"

This attaches to the word the sense of something which binds, restrains, holds a man back from doing certain things. The other derivation makes it out a compound of *re*, in the sense of "again," and *lego*, "to read," originally, "to collect," thus understanding by *religio* the frequent repetition of some particular act or acts. The first involves the idea of conduct, the second, the idea of ritual as the true domain of *religio*. Neither gives the complete idea of the English "religion," as it is now often understood, as comprising three distinct things: 1. Faith, or a certain belief on abstract subjects; 2. Conduct; 3. Conformity to a certain ritual.

PAGANISM.

Under the influence of its union with the State, pagan religion either formulated no profession of faith or attached little value to its avowed acceptance. In many ancient systems, indeed, the faith or creed in its entirety was not taught to the people at all, but was reserved for the privileged few who were initiated into the "mysteries." In others, again, the beliefs on which the practices were based could be defined only in the vaguest terms by the priests themselves. As to civil conduct (except so far as obedience to the king was concerned) the pagan church practically disregarded it. This resulted from the predisposition of the king, the priest, and the people. The king having been originally selected as a regulator of conduct, was keen to maintain and extend his control over the daily lives of his subjects. The priest, while his dignity was recognized and his support provided for, was normally content to leave the king's province unmolested. Where faith and conduct are ignored, but one thing remains for religion to do; namely, to require and superintend the performance of certain rites and ceremonies—to become a mere purveyor of exhibitions. And into this degeneracy sooner or later every form of paganism has fallen. This is true likewise of every State religion—professedly Christian as well as pagan. Whatever the theory, in practice

the second etymology of *religio* mentioned above was universally adopted, and the priest was little more than a theatrical manager.

As for the people, we have seen that their submission to human as well as spiritual authority rested alike on the two motives of fear and affection. It was inevitable that they should deem the same means of propitiation available with the powers represented by the priest that were found effective with the king. The king had his tribute, in consideration for which he extended his favor and protection. So they brought their offerings to the priest, and he burnt their cattle to conciliate the gods, whose representative he was. The priest, in this aspect, was the tax-collector for the monarch of the spiritual world; and like many another tax-collector, he not infrequently appropriated a goodly share of the payment to his private emolument.

HEBRAISM.

Into a world which had developed no higher conception of the function of religion than this, came the Hebraic dispensation. Whatever theory any one may adopt as to the nature or the fact of what is known as "revelation," it cannot be denied that the doctrine of Moses as to Church and State was a revelation, at the very least in the sense that it was derived from nothing which preceded it, and that it assigned to religion an entirely new meaning and mission among men.

The time having come for this work, the way of doing it was also "supernatural." It was the very reverse of the way in which the profoundest philosopher of that time or any other would have been likely to set about it. In order to make of religion something more than a mere system of formalities, it would seem natural to begin by proclaiming that formalities have nothing to do with religion in its true sense. But Moses did not begin in that way. He began by providing for religion a system of formalities without a parallel for ex-

tent and minuteness. In order to purify religion of the contamination incurred by its connection with the State, it would seem natural to announce an absolute separation between the two. But Moses made no such announcement. Not only did he fail to separate them, but he actually merged the one into the other, and produced a perfect and complete identity between them. Of this identification the government of the Hebrews in Canaan presents the sole instance known to history. It is the only pure theocracy ever instituted. Nor was this accomplished by sinking the Church in the State. It was accomplished by abolishing the State as such altogether, and setting up the Church in its place. Every ordinance, every law, no matter what its scope or purpose, began, "Thus saith the Lord."

Two results followed: The minds of men whom experience and hereditary tendencies had rendered unable to dissociate religion from ritual, were satisfied with a ritual as magnificent and elaborate as they could desire; and minds long accustomed to look upon the State as the only power which took cognizance of their daily life and conduct, were brought to acknowledge a responsibility in this regard to the Ruler of the Universe. Literally, men's hearts were turned to God. And though sacrifices were provided by way of atonement for breaches of the law, yet repentance was not lost sight of. The one was only valuable as the emblem and attestation of the other. The people were taught, not only that the unseen power which ruled the universe was watching and judging their conduct, but also that He was not to be bought off from His judgments, like a threatening invader in this world, by the tribute of wealth, gifts of gold or frankincense or myrrh.

Then, with the message that man's responsibility for his conduct was not to other men alone, and that the penalties for misbehavior were not only those defined in the statutes of legislatures or the proclamations of kings, but lay in Jehovah's wrath, the mission of Israel ended; and a Man came

into the world preaching a strange and wonderful doctrine as far removed from that of Hebraism as Hebraism was removed from paganism in its highest forms.

CHRISTIANITY.

Christianity is its own miracle. Considered with reference to its origin and the means adopted for its promulgation ; with reference to the startling novelty of its principles, the severity of its standards, the entirely new function which it assigned to religion ; above all, with reference to the hard soil of the human soul in which the seed was sown, it cannot be denied that its survival and its still prevailing influence over the dominating races of men, are phenomena without a parallel, and without adequate philosophical explanation.

And the Founder of Christianity is His own miracle, too. By the time He came on earth, men had forgotten that they had ever elected their rulers ; and force alone was understood as the basis of permanency in Church or State. He asserted His right to submission, while having no earthly force at His command, and disdaining to appeal to those who had.

When a conquered king was beheaded, no man did him honor. But this Man by His death drew all men to Him. The Star of Bethlehem still shines. The shadow of Calvary reaches us across the ages.

The disciple of the Tübingen school is as busy with this mysterious Individuality as the priest — perhaps more so. The denier of Deity pays higher tribute to Christ in claiming that he behaves as well as Christians ought to behave. And that dispute which began in the temple about the Father's business with his children here, continued with Julian and Voltaire, and is still going on with the wise men of to-day.

Moreover, the question most earnestly debated by the most profound thinkers of our time is not the authority of Christ, but His teaching. The effort is not to get away from Him, but to get at Him. Before we can "come to Him" in any true sense, it is plain that we must find out where He is.

If we wish to enter into His kingdom we must begin by realizing, at the sacrifice of any prejudice, the subjugation of any impulse, exactly where that kingdom lies. According to His own statement, it is "not of this world," but is "within you."

The new religion which Christ founded thus became in one sense destructive of the Mosaic system, and in another sense supplemental to it; *destructive*, in that it discarded all formalities and proclaimed the total separation of Church and State, which that system made identical; and *supplemental*, in that it insisted on the jurisdiction of the Church over the conduct of men.

But if the Church and State were to be totally separated, would not the State insist, and rightly insist, that the regulation of conduct must be left exclusively to her? Had the State not been born of the necessity for regulating conduct in war, and endured because of necessity for such regulation, even in peace?—Certainly. And here was the great "revelation" of the Master. He and He alone divided conduct into two kinds, the conduct of *the mind* and the conduct of *the body*. The last, the true, and obviously the only possible concern of the State, Christ consigned to her exclusive jurisdiction. Over the first, lying in a domain where no State, or legislature, or governor, or police, or soldier, could ever penetrate, He asserted His authority, and there was His kingdom set up.

Shakespeare and an idiot might eat the same amount of substantially the same kind of food, and one sit down and write a scene of Hamlet, while the other babbled to the birds and trees. The integration and the disintegration of cells, the destruction and reconstruction of tissue, the evolution of heat and carbonic acid,—everything that we could feel and see and test with litmus paper, and weigh with most delicate scales, might be just the same; and yet how different the result for all mankind! The secret of this difference is the individuality, the mind, the soul, the spirit—whatever you

may choose to call it—of the man. It is that which makes him one and the same from infancy to the grave, albeit the physical atoms of which his visible shape is composed are not the same for any two successive instants. Over that spiritual individuality and its conduct, the Master claims to rule. The Great Spirit of the Universe asserts its imperious dominion not over the bodies and the bodily movements alone, but over the very minds and hearts, in other words, the spirits of mankind.

If anybody will compare the work of religion as understood by even its immediate servants under any other cult than the Christian, with this “hard saying,” he will cease to wonder that the Master’s mission has so slowly and painfully made the little way it has thus far won into the hearts and minds of men. Consider a moment how the case lies. Here is the king; he demands obedience to certain laws made known to us all; he exacts certain tribute which we are notified in advance that we must pay. Very well. Here is also the priest, who demands our tithes; well, we know what they are in advance, and can prepare for them. But lo! Hebraism comes upon us. And the priest or the prophet wants the tithes still, and then says they are not enough. He wants mercy as well as sacrifice, forsooth. He has taken to himself the dominion of the State. He is undertaking to make laws for us like a king. He demands that we shall behave in a certain way toward each other under penalty of vengeance of the deity whom he represents. Surely the test is abundantly close as it is. To have the collective vengeance of the community invoked against one in the name of Jehovah, to feel His hand in the punishment of the outraged law—this identification of Church and State in matters of external behavior is surely serious and searching enough for poor, weak human nature.

Not so. The test is to be made yet more searching. Responsibility for *actions* is not only now to be extended, but we are to be arraigned for our very *thoughts*, before a Judge “unto

whom all hearts are open, all desires known, and from whom no secrets are hid." A hard saying enough, in all conscience, and no wonder that the cry has gone up in all the ages, "Who then shall be saved?" No wonder that frantic efforts are forever being made, in some way to evade a requirement apparently so impossible of fulfillment, and to substitute some other kind of service for that never-ending cleansing of the heart which He has demanded of men.

And the commonest kind of futile endeavor in this direction is, as it has always been, *to set up for Him a kingdom in this world*, where He has expressly declared that His kingdom is not and cannot be; or in other words, to effect and maintain that union of His Church with the State, which He expressly and in most emphatic language proclaimed could never exist.

Nor is it necessary, or indeed just, to insist too much in this connection on financial motives. It is not only fair but essential that they who attend on the altar should live by the altar. No satisfactory priestly service can be expected of any man who is not at rest in his mind so far as his maintenance is concerned. And besides, the most strenuous efforts in favor of a union of Church and State are often made by persons without any pecuniary interest whatever in the result. The constant disposition of many who sincerely believe in the Master, and really want to follow Him, to establish for Him a kingdom in this world, grows, more or less unconsciously, out of a sense of weakness. His saying *was* a hard one. Amid all the temptations of active life it is difficult enough to be decent in action. Respectability is hard to maintain, with avarice, and ambition, and lust, and laziness, forever dragging our hearts toward the pit. But if we are to be held accountable for the very visions of the mind; if neither the chamber, the office, nor the darkness of midnight in forest or field, can for one moment hide us from the eye of a Judge who is looking not only *at* but *through* us, who indeed may be saved? And so, the impulse to find some

way of getting around this close-testing proclamation of His is natural enough. If Christ is going to charge up all our wicked thoughts against us, and if it really is quite too serious an undertaking to keep our minds and hearts always clean and pure, may it not happen that He will set off against our delinquencies in this respect, the good works that we do? If I have lusted after a woman, may I not plead in extenuation that I never work on Sunday? If I wish that my competing neighbor might be ruined in his business, may I not atone for it by fasting on Good Friday? But even easier and therefore more tempting than this scheme for "getting even" on the Eternal Books, is the idea of atoning for not only our thoughts but our wicked actions by preventing wickedness *in other people*.

And here another deeply-rooted principle of human nature steps in. It has been said that in every situation the first desire of a woman is to know what is going on, and the second is "to boss the job." The same remark applies in great degree to men. The "desire to boss" is only a slang expression for the lust of power, which through all the ages has so bitterly cursed humanity. Patriotism, philanthropy, and religion have all served their turn as excuses and cloaks for the gratification of this passion. The prostitution of religion to its evil work is what concerns us here.

If people are prone to attempt to "make up" for vile thoughts and actions by good deeds of their own, how incorrigible is the propensity to try the same experiment by forcing what they consider good deeds upon others! Smith reasons to himself—deliberately or not is no matter, since he *acts* upon the reasoning—somewhat as follows: "O, I cannot think straight myself; my wicked ideas are too strong for me: I cannot even go straight for any length of time without taking altogether too much trouble; I know what I will do—I will get up a society to make Brown, Jones, and Robinson go straight by act of the legislature. Then if I do get crooked myself in thought or deed, I shall

have something wherewith to balance my account 'up there' anyway. And how easy, in fact, how delightful, it will be to get to heaven by setting other people straight! In this way I can have my name printed in the newspapers, and order Brown and Jones and Robinson around, too; and make them do what I want them to do; and have them understand and acknowledge that I am better and wiser and greater than they are."

Now this setting of others straight, this being a busybody in the world, does answer the great purpose of many lives in our day: and does get one's name printed in the papers very often. Nor can it be denied that it affords a sort of substitute for the old orders of nobility, and tends to divide society into two great classes,—the leaders, and the led,—like the barons and vassals of the Middle Ages.

But here again comes in the "hard saying" of the Master. 'Setting others straight by act of the legislature is conduct without merit in His eyes. If it were possible for Smith to save his own soul by such means, however mixed his motives, or however uncomfortable his proceedings might render Brown and the rest, no one could reasonably blame him. But observe the fallacies which, according to the Master, underlie the assumption that such a thing is possible. In the first place, what He demands of Smith is not that he shall attempt to control either the minds or the bodies of *other people*, but that he shall exercise unceasing vigilance over *his own*. In the second place, the kind of merit which the activity of Smith produces in the others by his legislation, is not recognized by the Master as any merit at all, and therefore Smith's work, so far as the Master is concerned, is simply thrown away.

There is a homely anecdote which is apposite just here. An inebriated gentleman being indignantly asked by his wife why he came home at so late an hour, is said to have replied, in some astonishment at the simplicity of the question, "Why, of course I came home because all the other places

were shut up." To any true wife this excuse would be worse than none at all. But to the policeman, who represents the State, the only object is to have the drunkard housed; whether he sneaks into his dwelling under the influence of a fear of arrest, and when every other "resort" is closed to him, or whether he enters it as the temple where his heart is enshrined, the officer cannot know and does not care. It is just so in the case of Brown and Jones and Robinson. If they are only prevented from doing evil by the legislation which Smith has had enacted, then they may be better citizens, more desirable men to have in the community, but so far as the Master and His kingdom are concerned, Brown, Jones, and Robinson are just where they were before. The man who would get drunk if he could, the man who would rape, rob, and murder if he dared, is as far from that kingdom as is the man who has done one and all of these things. So Smith's work is, as has been said, in vain, and the items which he fondly imagines are entered to his credit "up there" are all wanting.

It is one of the most pleasing results of the study of the Master's life and teaching, that whatever the standpoint from which He is approached, there is found the same unerring balance, the same "sweet reasonableness," in His message to men. Our present business is with Him as a practical man of the world rather than as the apostle of a revelation. With no irreverence we may study Him, not as a preacher or a redeemer, but as a statesman. What application to the welfare of society has His confinement of the religious life to thoughts and voluntary actions alone? No one else ever dreamed of such a thing. We have seen how the conception of religious authority was evolved along the same lines as the idea of secular authority. We have seen how in the Hebraic economy the relation of the Church to humanity was to identify it absolutely with the State. Moreover, this religion which the Master was founding, was destined to be taught among nations where a different religion altogether

was already strongly intrenched in the minds of the people — the organization of a priesthood and the support of the State. And against all these forces it was to win its way by spiritual means alone, and to survive because it was the fittest. If its standard had been as low as theirs and its ways like theirs, no reason could have been given for its acceptance, no possibility of success have awaited it.

In proclaiming that there should be no identification of the Church with the State, the Master went far beyond all precedent. In insisting that there should never be the slightest alliance or connection whatever between the two, He defied the wisdom of the ages. All the great thinkers of old regarded the one as a necessary adjunct of the other. Egyptians, Greeks, Romans, considered that the two must be united if order was to be preserved. *The bargain was that the Church was to frighten the people into obeying the State, and the State was to compel the people to support the Church.*

Unquestionably, as long as the bargain was kept. the Church was performing to a certain extent a useful service in the world. She had a mission, such as it was. She earned, after a fashion, the bread and butter with which the State fed her. But so far as the work of developing the inner nature, of elevating the standard of conduct, of purifying the hearts and expanding the souls of men, of regenerating and exalting humanity was concerned, she was utterly worthless. She was merely an agent of police. Her standard was a police standard only.

As a *restraining* influence she might have a value. As a *progressive* influence she was valueless. But in the moral, no less than in the physical world, that which pauses, retrogrades. Hence, even as a police power, religion had practically ceased to be of any account when the Master came. Its union with the State had destroyed its vitality. As a matter of fact it was no longer capable of exercising that moderating influence which was the consideration supposed to be rendered for the State's support, so that it was obtain-

ing that support under false pretenses. The masses, so far as they paid any attention to it at all, handed over their tithes, and made their sacrifices, and refrained from nothing on its account, because they understood that they could break any law they pleased without fear of the Church if they paid the Church for the indulgence.

Philosophy, as distinguished from religion, alone undertook cognizance of the real conduct of men. And philosophy had resolved itself into the utmost possible isolation from active life and from intercourse with one's fellow-creatures. Thus such of the community as still had a standard of behavior disassociated from the penalties of the State, withdrew more and more from affairs; religion fraudulently took gifts from the rest, giving them in return a free license in the matter of conduct, though professing herself the State's ally in its regulation. And the State was left alone to deal with the froward and the law-defying.

To appreciate the state-craft of the Master at this crisis, we must revert to one or two "fundamental principles." So far as the relation between the State and its citizens is concerned, good may be defined as that which tends to the conservation and strengthening of the social organism, and evil as that which tends to its destruction or disintegration. The function of the State is police. The true American idea is that the *only* function of the State is police. But whatever theory or form of government we may adopt, it must always happen that the largest and costliest part of the State's activity toward its citizens must be a police activity.

With State, as with all machinery, the great object is to accomplish the most work with the least expenditure. And with State machinery, as with all other, when the work to be done exceeds the strength of the machinery, the latter breaks down. It follows, then, that the State is strongest wherein its chief function, that of police, is performed with the smallest expenditure. The expenditure involved in discharge of this function is in direct ratio to the number of citizens

whose disposition makes a police necessary. When that number becomes so large in proportion to the rest as to be practically the whole population, then the work becomes too heavy, the State machinery breaks down, and anarchy supervenes.

The Church having proved a total failure as a direct adjunct of the police power of the State, and having, in fact, degenerated so low as to sell that very influence to the criminal classes, which the State paid it to exercise against their destructive energies, the utility of the Church was plainly ended. The question was, How could that utility be restored? The only practicable way was plainly to dissociate the Church from the State altogether, to assert her claims to the spiritual mastery of men, and to disclaim any direct jurisdiction over their bodies, to set up a standard of conduct altogether higher than that of the State, and enforce it by penalties of altogether a different kind.

The result of this was to transfer the work of the Church from a police of punishment, if we choose, to a police of *prevention*. For every one who heard and understood and received the Master's message, one was added to the group of citizens who would do no wrong though no police existed. And to that extent the burden of its police machinery was lifted from the shoulders of the State. Here was a practical result of inestimable value. Probably one who considers the gospels altogether mythical would not dispute that in a community where the Christian standard of conduct was uniformly acted upon, no police whatever would be required.

Is the incompatibility between the Master's kingdom and Cæsar's a mere question of degree as many seem to think? May the Church, consistently with her Master's teaching, in any wise or to any extent whatever, ally herself with the civil power, and trade influences with it, as did the pagan religions of the olden time? May she even acquiesce in the State's offer to enforce her ordinances in the form of statutes?

If she does so little as this, she sells her birthright, and

surrenders the liberty with which she was made free. She defies the very law of the Master, and turns her back upon Him, and owns another for her Lord. Not only did He announce in the most distinct terms that He desired no union between His Church and any State, but He plainly taught that such a union was from the very nature of His religion an utter impossibility. Let there be no question on this point. It is not merely true of the Church which will *ask*, it is true as well of the Church which will *allow* the State to come into her domain and thrust her ordinances by police power down the throats of unwilling citizens. In either case it is true of her that she has betrayed her trust, and made the Master a liar; and whatever else she may be, she is an unchristian Church, *totally* and not in degree.

But the Master had no caprices. That will which He announced as dissolving forever altogether the union of Church and State, was in this, as in all other things, guided by the "sweet reasonableness" that was all His own. The union was not forbidden and denounced for other than the best and most practical reasons. It was forbidden and denounced because in the development of humanity the time had come when it could not exist consistently with the highest interests of the race and its moral progress. Moreover, the old order of things was doomed, and out of the ruins a new order was to be created. Pagan religion could never survive the approaching wreck of the institutions with which it was inseparably intertwined. It was doomed alike by its principles and its practices. The standard of the new faith was the only one around which the race could rally for the work of bringing order out of the approaching chaos.

Such is the will of the Master. But the Church turned from His counsel, and in a dark intrigue with the Emperor Constantine entered into a union with the State. But again, instead of society's being bettered or reformed, its deep-dyed corruption was given a yet deeper dye, its "dark-damnation" was only the more darkened, and its ruin the more hastened.

And so the storm burst from the steppes of Asia and swept over the continent of Europe. And when the fury of the waves was spent, the Neo-paganism of the South, which the conquerors did not know, had gone down forever; the paganism of the North, which they believed in and brought with them, was lost in the tempest. And only His form walked upon the surface of the waters.

And then the Church still further ignored His warnings and took possession of the kingdom that had been Cæsar's, in His name; and in their zeal they well-nigh returned to the Hebrew identification of Church and State, which had long since done its work and fulfilled its time. Micah 4:8; Eze. 21:25-27. But the end was as the Master had foreseen and prophesied, and His own kingdom, the only one He cared at all about—His rule over the minds and hearts of men—was lost to Him.

It has been observed that the Church which connives in the smallest degree at the State's intrusion upon her domain, has abandoned *in toto* her claim to be called a Christian Church. But though her unchristianity is an absolute quantity, and not affected at all by the extent to which her dalliance with the power of the sword may go, yet the measure of the evil result to mankind, of the union of the Church and State, is in exact proportion to their intimacy. The first evil is of course that the Church ceases altogether to be Christian; the second is that she ceases to be a Church in any true sense of the word. She sinks at once to a mere bureau of government. Her bishops degenerate into ward and district managers, and her clergymen into detectives on special duty. The divine right *to govern wrong* is preached from her pulpits, and the threats of hell are merely the brandishings of the policeman's baton.

As for the State, the evils need not be enumerated. The foul depths of hypocrisy to which men descend; the dragging of holy things through the mire of politics; the blasphemy ever rising to the lips of the scoffers; the vile bigotry, the

not beastly (no beasts have ever understood the union of Church and State) but *fiendish* cruelty, the malignant rancor, the envy, hatred, malice, and all uncharitableness which have had their birth, and writhed their loathsome way among men under the sheltering wing of an established religion,—are familiar to us all. It is enough for us that this union, in any degree whatever, is contrary to the Master's teaching. But it is also important for us to root it up, leaving not the smallest fiber in the ground, lest the ill weed grow and stretch over us as over our ancestors, converting the green fields of happiness in this world into a foul and treacherous morass, and cutting us off from the sight and hope of the blue heaven above.

That this incestuous union between the Church and the State — true sister and brother as they are — exists in America to a greater extent than most persons appreciate, and that an effort is constantly being made to strengthen the union, is evident enough.

A few instances in which we find dogma incorporated in our law — and therefore a union of Church and State — will now be mentioned : —

I.

The most important illustration of the union with which we have to deal we discover in what are known as "Sunday Laws." These are statutes which require of the citizen a certain line of conduct on the first day of the week, different from that which is required from him on any other day — which establish the "special peace" of Sunday. It is true that this special conduct consists in abstention and not in action ; the citizen is not required to do anything on that day which he is not required to do on any other day ; but he is forbidden to do a number of things on that day which he may do on any other day not only with impunity but with the highest approval. His personal liberty is restrained to a greater extent on that day by the State than it is on any other day.

The controlling principle of our government is that though government be a necessity, yet it is always to be kept within the narrowest possible bounds,— that for every encroachment it may make on individual liberty it must demonstrate the absolute and overweening necessity, and must prove that the encroachment has been made because it would be absolutely impossible to preserve the social order without it. The least possible government, the cheapest possible government — practically one and the same thing — is the demand of the age. Let us bring Sunday laws before the tribunal of reason, and see if they can be sustained on any such principles as these.

It must be conceded that a certain amount of restriction upon the liberty of occupation and of locomotion is necessary if men are to live together at all. The necessity is sufficient justification for the restriction. It is also its limitation. And necessity limits the restriction absolutely to such conduct as interferes with the equal liberty of another. Except in Sunday laws, it is an axiom of universal acceptance that the conduct of one citizen cannot so interfere with another at one time as to call for the exercise of the police power of the State, unless it be such conduct as would so interfere at any and all times. That is to say, that *time* alone cannot be made to affect the legality or illegality of an act, all other conditions remaining the same. Where, by the general consent, a portion of time is "set apart" for certain things, then conduct which interferes with those things may be prohibited at such times, though allowed at others. Thus an act may be a nuisance at night which would not be a nuisance in the daytime, etc. But an act cannot be a nuisance on one day which is not a nuisance on every other day.

In what respect does the conduct of the average citizen differ on Sunday from his conduct on other days? What is the change in his own occupation on the ground of which he demands that the police power of the State shall lay special

inhibitions on the conduct of the citizen who is not of the average? There can be but one answer to this question. The duties of public devotion are assumed by the majority on that day, and they abstain, in form at least, from the duties of their regular business. If, then, the minority are to be compelled by the police power of the State to observe a special peace on Sunday and to abstain from anything permitted to them on any other day, it can only be because this special peace of Sunday and this special abstention are necessary, in order that the rest may be idle and attend their public devotions.

How far the State may be justified in compelling one man to be idle because another man wishes to be so, will be considered later. The question now is, Do the duties of public devotion require that the persons who do not care to perform them shall behave themselves differently on Sunday from the way in which they behave themselves on other days? The utter falsehood of the pretense that any such requirements exist, is patent. There is not a single sect of believers in this land, which does not perform the duties of public devotion on other days than Sunday, or that has ever claimed that the pursuit of its regular occupations by the rest of the community, in any way whatever interferes with their proper and satisfactory performance on such other days.

There is the Jew, who seeks his synagogue on Saturday; there is the Seventh-day Baptist and the Seventh-day Adventist, who agree with him in regarding Saturday as the proper day for weekly religious service; not one of these has ever thought of suggesting that a special peace of Saturday is necessary or even desirable for the religious observance of that day. There are the Roman Catholics, the Episcopalians, etc., who consider services appropriate to Christmas, to Good Friday, to Ascension Day, to the forty days of Lent, to many Saints' Days and the like; from not one of them has ever come an application for the exercise of the police power of the State to compel others to abandon their regular

avocations in order that any of these days may be adequately observed.

Finally, there are the very people who are the most bent on the maintenance and extension of Sunday laws—the so-called evangelical denominations. They have their Monday night, their Wednesday night, and their Friday night religious services; they have great “revivals” lasting week after week, and consisting of services every day and night in the week. That their meetings on the last six days of the week are not to the full as satisfactory to those who conduct them, and are not to the full as productive of results in the way of “conversions” as are their meetings on the first day, has never been claimed by any one. The falsehood of the pretense that a special peace is necessary for the proper performance of the duties of public devotion is, then, a simple fact of daily experience, like the law of gravitation or the shining of the sun.

When a fallacy has been exposed, it is perhaps superfluous to go further and show that if it were a truth, it has no application whatever to the controversy in which it has been invoked. But error has such a wonderful vitality and reappears in so many forms to blight the lives of men after it has, to all appearance, been destroyed, that it may be as well to add that even if this palpable falsehood about Sunday laws were a fact, it would not excuse or justify them in any manner whatever.

Unless we concede the union of Church and State, the State can compel no man to stop his work in order that another man may pray or preach to his own satisfaction. No suit for damages, nor yet injunction, will lie on any such ground in America, because where Sunday laws are not involved, the courts are reasonable enough in this matter, and justly say that all such damage, if there be any, is *damnum absque injuria* (a loss without an injury). The reason is plain. A damage cognizable in the courts of a secular State must be one which is of a secular character, and

which can be measured and compensated for in money. How is any man to put into money, to reduce to dollars and cents, the injury done him by interference with his communications with the Creator?

Again, there is no such general *consensus* as to the value of religious devotions in general, or the devotions of any particular sect, or of any particular person, as would render it possible to get a jury to put a valuation on their interruption. Many consider that any form of religious devotion is a mere waste of time; many regard particular forms as rather worse; others, knowing the man who had been interrupted, might say that in his case such devotions were presumptuous and more likely to get him into trouble than to do him any good; and so on.

But if the spiritual injury of an interrupted devotion cannot be prevented or recovered for in a court of law, it constitutes no ground whatever for legislative prevention. In undertaking to prevent it, the legislature not only undertakes to decide a purely abstract religious question as between the religious and irreligious, but in undertaking to prevent it on the sacred day of a particular set of religionists, and neglecting to prevent it on days held equally sacred by other religionists, it sets itself up as a judge between orthodoxy and heterodoxy, or in other words sets itself up as an ecclesiastical body. And what is this but the union of Church and State?

And not only must the legislature, unless it is a religious council of a sect, establish this special peace on every *day* deemed sacred by anybody, but it must establish the same for any *hour* so deemed; consequently, if any sect should take it into their heads that they would like to have a church service between twelve and one o'clock every day in the week, the legislature must pass a law stopping the wheels of traffic and compelling the complete cessation of all effort to earn a living, by the rest of the community, during that hour every day. If it declines to do so, it sets itself up as an authority

on points of dogma, and exemplifies the union of Church and State.

With the demonstration that Sunday laws are evidence and part of a union of Church and State among us, their consideration might be dropped consistently with the title of this little book. But in addition to all this, these statutes are utterly detestable. They are a shameful and a heavy burden on a people that fancies itself free. They are altogether inconsistent with everything that Americans hold to in the theory of government. They afford constant opportunities and incentives for the venting of low spleen, the gratification of vile malice, the infliction of injuries, sometimes petty, sometimes serious, under the guise of "public service." Every reason, sincere or otherwise, on which they can be defended and their deserved abolition delayed, ought therefore to be examined and exposed in a work devoted to the theory that the union of Church and State is no less blasphemous, than it is pernicious to the body politic. It remains, then, briefly to examine what is commonly called "the secular aspect" of Sunday laws.

It has been said that the only difference in the conduct of the average citizen on Sunday from his conduct on other days consists in his performance of public devotions, and his abstinence, in form at least, from his ordinary occupations. It has been shown that the first is not a sufficient reason for the State's compelling the non-average citizen to make any change in his mode of life. As to the second, is it possible that because one man chooses to be idle, he has the right to call on the State to force idleness upon another? Well, there is a good deal of talk in these days which tends in that direction.

We hear much about the necessity of restraining the eager, unhealthy competition of modern life; and in other than Sunday laws we find traces of the idea that it is a part of the mission of the State to foster idleness to the utmost among the people. We shall return to this aspect of the

subject hereafter. For the present it is sufficient to observe that American law cannot admit the proposition that interference by competition alone, of one citizen with another is ground for the invocation of the police power. If this power is available at all on such grounds, it must be available to destroy competition altogether. If the State may close A's store one day in the week because B wishes to close his, it may close A's store for all time because it competes with B's. Moreover, it is a pet claim of the Sunday-law people that he who neglects his business on one day in seven, will accomplish more in a year than he who works every day. If this be true, what injury is done him by the competition of the steady worker, which he would have the State redress?

Thus far, in considering the object and effect of Sunday laws, we have been only concerned with their relation to other persons than the unwilling idler. The effort has been to show that there is no tenable ground upon which the combined abstinence from work and play can be made compulsory for the sake of those who voluntarily abstain from such things. It remains to meet the argument that Sunday idleness and Sunday cheerlessness may be, and in fact are, made compulsory for the sake of the man who wishes neither to be idle nor to be cheerless on that day.

This argument is the one most used at present in defense of Sunday laws. It is most used at present because the popular mind in America is fast awakening to the fact that an established Sunday is an established Church, and nothing more or less. And the Sunday-law people, who know this perfectly well, and have always known it, have, in very desperation, invented the phrase "a secular Sunday," and promulgated the "holiday theory" of Sunday laws, in order to deceive and to preserve under false pretenses, the union of the Church with the State.

Cato wondered that one augur could look another in the face without laughing. It is difficult to imagine how one ad-

vocate of Sunday laws can hear this holiday argument used to bolster up his hobby without blushing with shame at the insincerity of its use. For every true Sunday observer knows perfectly well not only that Sunday laws cannot for an instant be defended under the holiday theory, but that absolutely not one single person who cares either for their existence or their enforcement takes at heart the slightest interest in this view of the subject.

The holiday theory of Sunday is hypocrisy of the most unadulterated and brazen kind. Its serious adoption by the Sunday observers is the best illustration that could be imagined of the base depths of self-recognized degradation, into which the union of Church and State will beguile the souls of mankind. It is a selling of the soul, far wickeder than any sale of another's body into slavery. It is an intellectual prostitution infinitely worse than any prostitution of the person. It is a crime against the Master, committed in His domain of the spirit, as much surpassing in infamy any possible crime against the State, as His majesty surpasses that of the civil judge.

Of this exceeding and transcendent wickedness is every observer of Sunday guilty who resorts to this holiday argument in favor of Sunday laws. That the argument is baseless is a small matter, so far as his ignominy is concerned. The point is, that he pretends to others that he is acting under a conviction that it is sound, and that it is this consideration which gives him his interest in these laws, that it is in fact with him the reason and the only reason for supporting them, when all the while he knows it to be baseless and irrelevant so far as he is concerned. And thus he is not only lying to men when he makes use of it, but he is consciously lying to his own conscience, and to the Maker and Ruler of all.

It is enough for the Sunday observer to tell him that he lies and knows perfectly that he lies when he claims to favor Sunday laws as holiday regulations. But for others it may

be worth while briefly to expose the untenability of this position, irrespective of the insincerity of those who seek to defend it.

Much learning of a certain kind has been expended in this connection over the difference between a holiday and a holy-day. Nevertheless, the fact remains that they were originally one and the same, and that holiday is the later and modified spelling of the word holy-day. This "setting apart" of days, this calling of men away from their regular and normal pursuits at certain periods, is in its origin an ecclesiastical proceeding altogether. It is an assertion of the Church's right to a portion of their time, which they are to take from the service of the State or the earning of their living. Thus, among the nations of antiquity and among the lower civilizations of our time, we find no conception of a holiday except as connected with some religious festival. The notion of a State holiday, and therefore the necessity of a word to designate it, is a very recent development, which will be examined on its merits presently.

Meantime, let us consider what is this State holiday of which we hear so much, and of which the tendency of modern legislation in America seems to be to multiply occasions indefinitely. A State holiday is a day on which the State suspends some portion of its functions, and permits its immediate employees to dispose of their time as they will.

Not one step beyond this can the State go without transcending its functions. It may close its offices ; but it cannot compel its employees to refrain from work elsewhere. Far less is it within its legitimate powers to compel any other citizen to remain idle against his will. The absurdity, indeed, of compelling anything in connection with a holiday is so palpable, it is so clearly of the very nature of a holiday that the holiday maker shall be left absolutely to his own devices as to his manner of spending it, that nobody would dream of attaching penalties to a holiday law.

Only one philosopher, so far as the writer is aware, has deliberately acted upon the assumption that the enjoyment, which is the fundamental idea of a holiday, may be compelled by force. It must be confessed that he is no less a man than that immortal "educator of youth," Mr. Wackford Squeers, of Dotheboys Hall, Yorkshire, England. He had a pupil by the name of Mobbs. Mobbs's stepmother wrote that she was sorry to find that he was discontented with the school, and hoped Mr. Squeers would flog him into a happier state of mind. "A sulky state of feeling," said Mr. Squeers, after a terrible pause, during which he moistened the palm of his right hand, "won't do ; cheerfulness and contentment must be kept up ; Mobbs, come to me."

So the State, under the holiday theory of Sunday laws, says to the citizen, "You must be cheerful on Sunday under the penalty of —— dollars for each and every offense." It is true that the State does not altogether follow Mr. Squeers in its manner of contributing to the general happiness by these laws. It does not actually require the citizen to present himself at the station house and be flogged every Sunday morning, by way of bringing home to his mind the inestimable advantages of the "institution." But it does, in its paternal anxiety to produce in his mind that joyous and light-hearted feeling which is fitted to a holiday season, carefully cut him off from all opportunity to enjoy himself in any rational and honest way common to holidays ; and it does take him to the station house and fine him if he undertakes to do so.

In short, an unanswerable proof that Sunday laws are not holiday laws in any sense whatever, lies in the fact that their interference with play is quite as excessive and arbitrary as their interference with work. And this brings us to the consideration of these laws as a whole, and leads us from the proposition that they are ecclesiastical dogmas and that only, which is sufficient to condemn them, to the further proposition that they are ordinances of diabolical cruelty, and are not only

futile as reforming agencies, but directly and actively contribute to the moral degeneration of the people. It is not enough that we should recognize them as silly and ineffective laws ; as defiances of the Master's express injunction : we are now to see them in their totality, as an absolute and unmitigated evil.

It may be doubted if Satan himself could devise a surer and more effective means of demoralizing men than at one and the same time to forbid them to work and forbid them to play. This double requirement puts the average man to a test of self-control and to a draft on his internal resources to which the nature of an angel could alone respond. That it should result in illicit actions of every conceivable sort, is as inevitable as sunrise. No one who knows human nature, and how almost impossible it is even for the most highly cultured to employ leisure to advantage, under even the most favorable conditions, can doubt the disastrous effect of Sunday loafing by law established.

But there is yet another respect in which the demoralization of Sunday laws works its evil way. By such laws the sanction of the State is given to the false assumption that the time of an act has anything to do with its moral aspects, when all other conditions remain the same : that emotions or desires which are all right on any other day are all wrong on Sunday.

More or less consciously, the Sunday loafer grasps the silliness and the falsehood of these assumptions. He knows, assertions of Sunday-law advocates to the contrary notwithstanding, that nature keeps no Sabbath,—that his own appetites and impulses are the same on Sunday as at any other time. He sees plainly enough that the State is deceiving him and bullying him under the shadow of a deception, when it makes and enforces a Sunday law : and his respect for the State and its other laws is weakened accordingly, on the principle (on which he acts, though he may not know Latin) of *stultus in uno stultus in omnibus*.

Finally, Sunday laws have this demoralizing quality in common with those laws for the establishment of State holidays which our legislatures of late seem to have a sort of mania for passing; namely, they constitute a State indorsement of the pernicious and false notion that idleness is a good thing in itself, while work is a bad thing, and industry a vice. This is a reversal of the doctrine of Horace Mann and his school which forty years ago voiced the views of American workers. The burden of their song was incessant, that labor and not idleness was dignified and good for men—some even going so far as to claim beyond the scriptural command that “if any would not work, neither should he eat” (2 Thess. 3 : 10), that those who did not work should not live. Surely it is a remarkable thing that now we should be forever legislating on the assumption that idleness is what human nature needs for its highest happiness and development, and constantly establishing State holidays, by way of encouraging the idea that loafing is the true end of man.

And this is the only idea on which the establishment of a State holiday can proceed. When holiday and holy-day were synonymous, there was occupation for the day “set apart,” different only in kind from the ordinary occupations of other days. The people were not only required to abstain from their regular work, but to work in the services of the gods. Sacrifices were demanded, and there was occupation enough in preparing for them and taking part in the ceremonies which accompanied them, so that idleness formed no part of the idea of a holy-day. But when the State no longer confined itself to “recognizing” the holy-days of the Church, but began to “set apart” days professedly on its own account and not for the sake of the Church, there was nothing for the citizen to do but to “honor” the day by being idle. All such laws are passed through the influence of the strange and wonderful “Apotheosis of Idleness” under which we are living, and under which such books as “Looking Backward” are written. To the thoughtful mind it is perfectly clear that

when this idea once becomes dominant, it will destroy an industrial civilization.

The lesson that work is, like pain, an evil to be avoided, instead of the developer and test of character and the destiny of man on earth, cannot be safely taught in such a cult. It means the lowest standard of life instead of the highest. It means the destruction of all good qualities and of those who possess them, and the survival of the unfittest. If we are really to use the police power to compel A to close his store because B wants to close his, we are on the road back to the state of things which existed before men learned to live in tribes, and character began to win its way to the fore.

So much for the moral aspect of Sunday laws with reference to the reluctant loafer. A word may be added on their physical aspect. It is constantly assumed as an axiom of thought by Sunday law economists that idleness on one day in seven is directly connected with health and longevity,—that is to say, not merely that every man needs some rest, but that precisely the same amount is needed at precisely the same intervals by every man.

It is not necessary to dispute the first of these propositions. The second, so far from being self-evident, as the Sunday law advocates pretend, is as unlikely on its face as anything which could well be put into words. How much rest a man requires to get the best work out of himself of which his nature is capable, is the product of three factors—the man himself, the work, and the conditions under which it is prosecuted. It is as preposterous to suppose that the requirement is the same for all, without regard to these considerations, as to assume that all men need a bed of the same length. It is as silly to legislate on such an assumption as it would be to fix by law a statutory bed, and then invoke the police power of the State to stretch the legs of the too short, and cut off the legs of the too long, to fit it.

But if this assumption is fallacious on its face, history and experience as conclusively refute it. Millions live hap-

pily and long who know nothing of a weekly rest day. The Romans, the most wonderful people of all time, accomplished all that was notable and great in their history before they got the idea of the weekly division of time. Among ourselves, preachers distinguish Sunday only by working harder than on other days, yet they are not conspicuously short-lived ; doctors, who from the very nature of their occupation cannot escape work with certainty on any day, are notoriously a long-lived set ; whereas the farmer, who conscientiously neglects his worldly duties to the utmost on Sunday, is one of the shortest-lived of men.

It has been shown that Sunday laws are religious ordinances ; that they are unnecessary religious ordinances for those who demand them ; and that even if they were necessary for such persons in their own opinion, no American legislature would have the right to pass such laws.

It has been shown that these laws are worse than unnecessary, in that they are actually pernicious, and more than failures as moral agencies for the benefit of those who do not desire them ; and finally, that they are of no physical advantage to anybody.

It remains only to point out the fact that even if they were indeed morally and physically beneficial, they are still beyond the domain of legislation in a free country.

We Americans have nominally accepted the doctrine that the powers of government are limited, and that there are certain things which no government can do. Yet to-day nothing is more common than to find Americans urging the passage of laws to constrain people to this line of conduct, and restrain them from that line of conduct, for no better reason than that the constriction or the restriction is a good thing to have in force.

This conception lies at the root of "Nationalism," and Nationalism is an exotic on our soil, as un-American every whit as is the empire and the established Church. But many, born and raised under our free system of government, appear

to imagine that it is an all-sufficient reason why the legislature should do a thing, that the thing ought to be done. They ignore altogether the fact that our system of government is a machine designed and constructed exclusively for well-defined and understood purposes, and that it is not to be used for the accomplishment of any other purposes, however desirable and laudable these last may be in themselves.

When, then, we ask of an American legislature the enactment of a law that its citizens shall do or not do certain things, it is by no means sufficient for us to show that it would be well for them to so do or refrain. We must go further and show that the legislature has the right to enforce upon them the doing or non-doing.

Whatever view any one may take of government, its proper scope and purpose, nobody can dispute that its keeping of the peace is the due and legitimate exercise of its "police powers." Now does or can this function apply to its keeping of the "special peace" of Sunday, as truly and as fully as to its keeping the general peace of ordinary days?

What are the limitations of this police power, as understood in free America? A high authority has justly observed that they are "hard to define." But nevertheless, they *are* limited, or else there is no practical distinction between the political condition of the United States and that of Russia; and they are unquestionably limited *to the prevention of interference by one man with another*. The fact that a man's conduct, his behavior, or his manner of living, may be unwise, in view of his own position, or his health, and may result in injury to himself alone, physically or morally, affords no ground whatever for the interference of the "police power" with his proceedings.

It is settled that the State may compel an unwilling citizen to be vaccinated. But on what ground? Not because if he remains unvaccinated, he would be liable to catch the small-pox; nor yet because if he did catch it, he would probably die; but solely because his unvaccinated condition renders him

specially liable to become a source of contagion to others. This is an extreme case. But beyond this the police power certainly could not go in this country. It could not, for example, compel a man with a weak back to wear a porous plaster, a man with *caries* to submit to amputation, a man with dyspepsia to take exercise, *or a tired man to rest*, because the suggested proceeding may be an advisable one in each case for the individual's own interest.

Let us apply this to the case in hand. By reason of their combined prohibition of work and play, it is the function of Sunday laws to inflict on the community the Sunday loafer. We have seen that if he were allowed either to work or play on Sunday, he could not thereby interfere with any right of others, real or assumed. No matter, then, if the false assumption that his Sunday loafing is good for him, morally or physically, were true, it is still no justification for its being forced upon him by an American legislature.

The *reductio ad absurdum* was never more useful than just at this point. The eating of three meals a day being generally considered as essential to health, the same authority which compels a man to loaf for his own good, may not only compel him to eat that many meals, but may determine precisely what they shall consist of and their size. It may likewise prescribe the kind and variety of clothing he shall wear in all the seasons. It may require him to walk a certain number of miles every day ; to sleep (which is rest in its true sense) either all day Sunday or for any given number of hours in each twenty-four ; and so on without limit.

The power to do one and all of these things, is the power to pass Sunday laws. And any legislative body which may enact a Sunday law on the ground that weekly loafing is healthy for the loafer, may do every one of the others on precisely the same ground.

II.

A second illustration of the union of Church and State in our country is the exemption of church property from taxation.

It is evident that there is no logical distinction between the exemption of Church property from taxation, and the taxation of other property for the support of the Church. Given a certain population and a certain number of square miles of territory to be governed, there must be collected for governmental purposes a certain amount of money. This must be distributed among the inhabitants, that is to say, in the last resort, apportioned upon the property of the given area. So soon as any portion of that property is withdrawn from the taxable basis, the sum to be raised remaining the same, the proportion previously paid by the withdrawn property must evidently be exacted from the property remaining. It follows, therefore, that the latter is supporting, *pro tanto*, the property withdrawn so far as governmental expenses are concerned.

This plain proposition cannot be denied, and but two attempts worthy of consideration have been made to defeat its force in this connection. The first consists in claiming that the presence of a church in a neighborhood increases the value of other real estate, so that the burden of taxation falls more lightly on the owners of the latter than it would if the church were absent. It is believed that this is a fact, and it must be taken for all that it is worth in the argument. The conclusive objection to it as an argument, is that it proves too much. The erection of a handsome row of dwelling houses in a neighborhood will increase the value of all other real estate therein. It would be a startling proposition that the result would justify the exemption of the dwellings from the payment of taxes. Yet the result would be as fair and as reasonable in the one case as in the other.

The second position which has been taken in defense of church exemption, is that this should be conceded because of the moral influence exerted by the churches upon the community, which, in brief, amounts to basing the privilege upon their function as an agency of police. But, in the first place, this agency is disputed as to any churches, by a large and possibly growing class of thinkers. Yet while the majority accord such recognition to one class of churches or another, there are certainly very few who so regard all churches indiscriminately ; the fact being that a sincere belief in churches of one denomination, as conducive to moral improvement, is usually accompanied by a no less sincere belief in the essential injuriousness of churches which represent any other denomination. It follows that there is no general *consensus* regarding the value of churches in the capacity of police agencies sufficient to justify the State in formally recognizing them as such.

And this brings us to a second and conclusive objection to this view of the matter. For the State to adopt any or all of the Church organizations as agencies of police, as it does under this theory when it taxes its citizens for their support, it is necessary that those organizations should be regarded in the light of State institutions and, in fact, as part of the State government ; that is to say, as churches by law established, in the true and strict sense of that term. It is unnecessary to point out that this reasoning demonstrates the utter incompatibility of church exemption from taxation, with the American theory of government.

We have thus far been concerned merely with the political or worldly side of this question. But the religious or moral side is at least as important. It is a true saying that "Example preaches better than precept." Now, if we assume that the mission of the Church is to teach men to do their duty in this world by way of preparation for the next, plainly to set them an example of duty done, is much more

effective in the working out of that mission, than mere verbal exhortation however zealous or eloquent.

We must remember that a church, considered in its "militant aspect," which is that occupied by it, so far as its relation to this world is concerned, is a corporation — that is to say, a citizen. Now it is admitted on all hands that the prompt payment of one's taxes is the first active duty of good citizenship in time of peace: that is to say, it is the expression in its highest form of the citizen's fidelity to the State and his acquiescence in the operations of its government. Any citizen, whether individual or corporate, whether viewed in his private or his official character, who evades the payment of his taxes, is therefore committing a civil fault, and setting an evil example to all his fellow-citizens which many hundreds of sermons cannot offset. What is the use of such a citizen urging all others to be just and honest, when he himself exults in the fact that he is getting something for nothing; that he is being protected by the State, and is throwing upon the shoulders of others the cost of his protection?

There is probably no chapter in the code of vital morality which cannot be made up of citations from the New Testament. Civilization has become extremely complex in the course of the last thousand years. But no occasion has yet arisen in the dealings of men with one another to which the touch-stone of the Master's teaching cannot be applied with the inevitable results of separating the right from the wrong. This matter of tax-evading was submitted to Him with the view of entrapping Him, and with the consequence that a doctrine was enunciated, which, like many other of His teachings, has been forgotten, or at least ignored, by His alleged followers, in their organized capacity, ever since the union of the Church with the State was consummated by the so-called "conversion of Constantine." "Master, is it lawful to pay tribute unto Cæsar or not?" "Show me a penny; whose image and superscription is this?" — "Cæsar's."

“Render therefore unto Cæsar the things which are Cæsar’s, and to God the things which are God’s.” It is true that the “Vestries,” who are the managers of our church corporations, are, in name at any rate, Christian men, and therefore it is to be presumed that in their private and personal capacities they pay Cæsar his taxes promptly and fully. That they should be willing to evade this duty in their corporate capacity, as the constituent members of a corporation for the spread and enforcement of Christian doctrine, is perhaps rather surprising. But it is only one of many illustrations of that curious weakness of human nature, which allows a man to vote at a meeting of a “Board,” when he is acting with a number of others, in favor of proceedings which nothing could induce him to undertake or bear any part in as a private individual.

Allusion has been made to the evil example which is set by the churches in their evasion of taxes. Experience shows that, like all other evil examples, this bears a rich and most pernicious fruit. From the exemption of a church itself and of the ground on which it stands, the exemption of “schools,” “hospitals,” “homes,” and the like which are controlled by the same corporation that controls the church proper, follows almost inevitably. Upon the heels of these as tax evaders, naturally come hospitals of every kind, even though they are conducted like hotels as the means of private gain. Then come also all “homes” which are run by “charitable organizations,” whose members are chiefly influenced, in many instances, by a perfectly intelligible ambition to see their names in print and to order other people around. Then we have scores of *quasi* charitable bodies whose existence and popularity is not altogether unconnected with their usefulness as excuses for staying down town late at night—the “secret orders” with which our country abounds. All these fall in behind the churches and rival them in their zeal to evade the payment of their corporate taxes. Of course nothing better could be expected of such innately depraved

bodies as railroad corporations than that they should follow this practical example of the churches, while neglecting in almost every conceivable respect to act upon their preaching. And so the evil influence spreads far and wide, and the church corporations are followed in this respect, if in no other, by nearly all their brethren.

One more aspect of the subject may be briefly noted. There are those who fear that if the churches were to undertake to do their duty in the payment of their taxes, their resources might be so impaired as to interfere with their increase and usefulness. Of course, when it comes to a question of duty, it is far better, on religious and moral grounds alone, to have one church in the community which sets the example of duty performed, than to have any number which simply stand as monuments of duty evaded. Nor should it be material to a Christian what consequences may follow from obedience to the doctrines laid down by the Founder of Christianity.

But independent of all this, the apprehension under consideration is wholly baseless, and shows a want of appreciation of the true nature of the religious impulse. Persons who devote their means to the maintenance of church organizations do not calculate so closely as this idea presupposes. Giving out of mere bounty, they will have that of which they feel in need for their spiritual gratification, without guaging the cost of it, as men do when they buy and sell in the way of business. To those who understand the feeling which lies at the basis of all religious activity, it is inconceivable that any existing churches would be abandoned, or that the rate of their increase would be diminished, if they were taxed like other property. As a matter of fact, the additional burden would amount to almost nothing, so far as individual pew-holders and contributors are concerned.

Moreover, it could hardly fail to give a great impetus to those moral sentiments out of which all useful religious zeal must spring, for men to know that the religious corporation

with which they are affiliated is setting them a perfect example of good citizenship as defined by the Master.

III.

The mode of swearing witnesses is yet another element of the established Church in America. The strictness of the Common Law in this respect grew out of the old form of indictments for perjury. These always contained the statement that the witness had taken the oath which was alleged to be false "*sacrosanctis tactis evangeliiis*;" that is to say, "touching the Holy Evangelist." It was supposed that if it could be shown in defense that the oath in question had not been taken with that particular formality, then the indicted party must be acquitted.

It would be hard to exaggerate the debt which modern civilization owes to the Jew. But if he had never accomplished anything in the domain of literature, of art, of music, of politics, or of finance, he would be entitled to the everlasting gratitude of humanity, because it is to his presence among us and to his almost unlimited capacity for the endurance of obloquy and persecution, that Christians owe their still slowly dawning conception of religious equality—not that very different and altogether odious thing, religious toleration. In spite of the rack, the thumb-screw, the slow fire, and the tooth-pulling, by which the professed followers of Him who "should not strive nor cry" sought to convince other people of the sweetness and light of His religion, the Jew insisted on making money, and generally rendering himself an essential factor in the progress of civilization. It followed that in many cases he became an indispensable witness when the courts were concerned with commercial transactions. The Jew refused to be sworn upon the "Holy Evangelist," the fact being that neither he nor the "Christian" judge had any more idea than a pagan as to what that "Holy Evangelist" really was. The Jew did know, however, what the five books of Moses were, and he insisted on

being sworn upon them or not being sworn at all. It was thus painfully borne in upon the minds of the "Christian" bench that it was possible to take a judicial oath upon which an indictment for perjury might be framed, although the witness when taking the oath had his hand upon something which they did not regard as the "Holy Evangelist." This was a great step forward.

After the Jew came the Quaker. This stiff-necked gentleman refused to touch anything whatever when he was about to give his testimony. He insisted upon going through the preliminary ceremony with his hand up in the air; moreover he flatly refused to be sworn at all, and would only "affirm." Thus we owe to him another great discovery in the wonderful science of jurisprudence; namely, that the penalties of perjury may be incurred by one who has made false statements in a judicial proceeding, even though he did not first touch *something* with his hand, and though he never swore to any of the statements in question.

Much of the cloud of nonsense which for centuries enveloped this subject was dissipated by the business relations which the conquest of India brought about between the English and the Hindus. But though in most of the States of the Union we have, in practice at any rate, arrived at the sensible conclusion that the proper way to "swear" a witness is the way which he acknowledges to be binding on his own conscience, we have not yet fully grasped the vital truth that a man who will tell a lie will swear to it, unless he associates in his own mind some penalty with swearing which he does not associate with the mere statement. Now, though it is nowhere laid down as a dogma by any church so far as the writer is aware, that any severer penalties will be incurred "hereafter" by swearing to a lie than will be inflicted for the telling of it, yet some such theory must at an early date have crept into the Common Law, and it is certain that it pervades the common mind to-day. Acting upon this hypothesis, which is thus fastened in the hearts of its citizens, the law

sought to bring to its aid for the elucidation of the truth the extra punishments supposed to be provided in the next world for an oath-sanctioned lie. Of course thus to employ a conception essentially theological as an aid to its investigations, is to effect a union of Church and State.

Where there is a religious qualification for a witness, and the point is raised that he does not possess it, the singular absurdity of the *voir dire* ensues. This consists in interrogating the man as to his religious belief. If he admits certain constituents therein, he is sworn and his testimony is admitted. But if he denies that these constituents enter into his religious belief, then he is rejected as a witness. Of course he is only rejected on the ground that, as the future perils which the State, acting as an established Church, attaches to perjury have no terrors for him, therefore he cannot be depended upon to tell the truth. Yet the whole theory of the *voir dire* is that he will tell the truth, and all his answers therein are accepted as absolutely true, and his competency as a witness is determined on that assumption alone. That is to say, the theory in the case of a rejected witness, is that he cannot be depended upon to tell the truth in a matter in which he has no interest whatever, *because he has told the truth* in a case where the telling of it caused the law to set a brand upon him, and has exposed him to a certain amount of ignominy, and prejudiced him in the eyes of the great mass of the community in which he happens to reside. In other words, as he steadily persists in telling the truth, he cannot be accepted as a competent witness : whereas if he could only be led on to commit perjury, he would be accepted as a competent witness in a court which inflicts penalties for perjury.

Absurd as all this is, it is the outcome of a way of thinking on abstract questions which has come straight down to us from the oldest form of paganism and from the neopaganism of Constantine. Mahomet spread his religion by means of offering the vanquished nation their choice between death and conversion. A large portion of the North of

Europe was brought under the influence of "the Church" by the same means. Quite recently the chaplain of a British regiment is said to have complained to the colonel that the men were not showing sufficient interest in the matter of religion, whereupon, we are told, the colonel ordered a detail from each company to be baptized on the following Sunday. All these proceedings are like the *voir dire*, and are based upon fallacies to which ecclesiasticism in every age is peculiarly prone. And not the least of these is that a man's word is conclusive of his belief even at the time that he utters it, it being self-evident that if he thinks sufficiently to have any belief which is worth anything at all, his belief must be always liable to modification.

IV.

Another class of unconstitutional requirements which seem to receive less attention than they deserve, embodies the union of Church and State in America. It is remarkable that while we have no religious tests for those who vote for candidates for public office, yet for the offices themselves many States set up the requirements of a certain religious belief. Perhaps these provisions have attracted so little attention because they are seldom if ever applied in practice. They are, however, full of practical danger to the country, and may at any time be invoked in order to defeat the will of the people in the choice of their executives. The average politician, if appealed to, would probably find upon examination of his conscience that there was nothing in the State religion which was not included in his personal creed. But it needs no argument to show that the man who would be capable of openly avowing that he did not believe what the State-established Church required to constitute eligibility to the office for which he had been chosen, would thereby demonstrate that he was possessed of qualities most desirable in a public official, while the State would be deprived of the benefit of his manliness and integrity for no better reason

than that he had demonstrated his possession of those attributes.

V.

Another trace of the established Church remaining in American law is the law of "Blasphemy." When about to deal with this subject in his own way, the author had the pleasure of reading some remarks upon it by Alonzo T. Jones, Esq., published in his paper, the *American Sentinel* (New York). These seemed to cover the ground so thoroughly and well as to make it more desirable to reproduce them here, substantially as first written, than to attempt to improve on them. By Mr. Jones's courteous permission, they are reprinted below :

FIRST PAPER.

According to Judge Cooley's definition (Constitutional Limitations, pp. 585-587) blasphemy is an attempt to lessen men's reverence not only for the Deity, but for "the accepted religion" as well. This in itself implies an established religion, a union of Church and State ; a religion set up by the State to be defended from attack or detraction in any way. But any man in this wide world has the right to lessen men's reverence for the accepted religion, if he thinks that religion to be wrong. Any man who preaches the gospel of Jesus Christ in any heathen or Mohammedan country commits blasphemy under this definition. He does make a wilful attempt to lessen men's reverence for the accepted religion, and for the deities recognized in that religion. He *has* to do so, if he is ever to get them to believe in Christ and the religion of Christ. He has to bring them where they will have no reverence for their deities or for the accepted religion, before they ever can accept the religion of Jesus Christ. Wherever the gospel of Jesus Christ is preached in any heathen country, it is blasphemy under this definition, because its sole object is not only to lessen men's reverence

for their deities and for the accepted religion, but to turn them wholly from it.

It is so likewise in Russia. Anybody there who speaks against the accepted religion, or against the saints, or their images, is subject to the penalty of blasphemy, which is banishment for life to Siberia.

But if blasphemy be a proper subject of legislation by civil government, if it be right for a government to make itself the "defender of the faith," then it is perfectly proper for the law of China to prohibit, under whatever penalty it pleases, the preaching of the gospel of Jesus Christ within the Chinese dominions, because its effect is to lessen men's reverence for the deities recognized by China, and for the accepted religion of the country. And in that case there is no such thing as persecution on account of religion. The only persecutions that have ever been, were because of men's speaking against the accepted religion. If this principle be correct, then the Roman empire did perfectly right in prohibiting under penalty of death the preaching of the religion of Jesus Christ. Whenever Paul or any of his brethren preached in the Roman empire, they blasphemed, according to the Roman law. They were held as blasphemers, and were put to death under the very principle of this definition, which is the principle of the American statutes on the subject of blasphemy. The Christians had to tell the Romans that the Roman gods were no gods. And they did it with the express purpose of destroying reverence for them and for the accepted religion. Rome put them to death. And we repeat, if the principle of the American statutes against blasphemy is correct, then Rome did right.

To make this clearer, we quote a passage from the Supreme Court of Pennsylvania in defence of this principle, in a decision upon this very subject, which says: "To prohibit the open, public, and explicit denial of the popular religion of a country, is a necessary measure to preserve the tranquillity of a government." That is precisely what the Roman empire

did. Christianity did openly, publicly, and explicitly deny the popular religion of the country. It did it with intent to destroy men's reverence for the deities and religion of that country. Rome prohibited it; and upon the principle of the decision of the Supreme Court of Pennsylvania, which is the principle of American law on blasphemy, Rome did right, and Christianity was a blaspheming religion. The principle of this decision seems to be that those who represent the popular religion of the country have so little of the real virtue of the religion which they profess, that if anybody speaks against it, it is sure to rouse their combativeness to such a degree as to endanger the public tranquillity. Therefore, in order to keep civil those who represent the popular religion, the State must forbid anybody to deny that religion!

This decision of the Supreme Court of Pennsylvania is one of the grand precedents that have been followed in all the later decisions upon this subject in the younger States; but this decision itself followed one by Chief Justice Kent of the Supreme Court of New York, in 1811, in which he embodies the same principles. He defends the right of the State to punish such offenses against what he calls a Christian people, and not equally to punish like offenses against the religion of other people in this country, by the following argument:—

“Nor are we bound by any expression in the Constitution, as some have strangely supposed, either not to punish at all, or to punish indiscriminately the like attacks upon the religion of Mohammed, or of the Grand Llama, and for this plain reason: that the case assumes that we are a Christian people, and the morality of the country is deeply engrafted upon Christianity, and not upon the doctrines or worship of those imposters.”

This is only to argue that if the morality of the country were engrafted upon the religion of Mohammed or the Grand Llama, and Christians were to speak against and deny that accepted religion, it would be proper that the State should

punish those Christians for so doing. If that principle be correct, then a Mohammedan country has the right to prohibit the preaching of the gospel of Jesus Christ within its limits.

According to these decisions, Luther and the Reformers of his day were blasphemers. And, as a matter of fact, Luther was outlawed for "blasphemy" of this very kind. The reformers did hold up to ridicule and contempt the popular religion of all Europe. They did right, too, for it was ridiculous and contemptible; and when the State punished them, it was but carrying out the principles upheld by Chief Justice Kent and the Supreme Court of Pennsylvania, and all the other States that have legislated on the subject of religion. As we have already stated, it was upon this principle precisely that the Roman empire forbade the preaching of the gospel of Christ. It only forbade an open, public, and explicit denial of the popular religion of the country. Yet in forbidding that, it forbade the preaching of the gospel of Jesus Christ. But Christ sent forth his disciples to preach the gospel to every creature, and they did it in the face of the Roman law, and in opposition to the whole power of the Roman empire; and everybody in all the world has an undeniable right to make an open, public, and explicit denial of the popular religion of this country, or any other, if he thinks that religion to be wrong.

The principle of these decisions and of the civil statutes against blasphemy, is essentially a pagan principle, and not a Christian principle. It is inseparable from a union of Church and State. It is peculiarly appropriate, therefore, that Chief Justice Kent not only cited the precedents of the Church-and-State principles of the colonies and of the British government, but appealed to the pagan governments of antiquity and the ecclesiastical institutions of modern Europe as the basis of his decision. It is true that all these nations have set themselves up as the special guardians of their deities, and have prohibited the denial of the popular

religion ; and it is equally true that all these nations have resisted every step in enlightenment and progress that has ever been made in the march of time. Every step forward in religion and in enlightenment has of necessity been taken in the face of all the opposition which these states and empires could bring to bear. But the principles of American institutions are not like theirs. The principles of the American Constitution, which forbid legislation on the subject of religion, are Christian principles. And it is strictly in order for Supreme Courts in making decisions in behalf of what they boast of as the "Christian religion," to base their decisions upon something else than the course of the pagan governments of antiquity, and the similar institutions of modern Europe. Upon such a subject one would naturally expect them to refer to the teachings of the Author of Christianity, but they have never done so, and for the very good reason that the teachings of Jesus Christ are directly against their theory.

His word forbids civil government to have anything to do with what pertains to God. And instead of teaching his disciples to prosecute, to fine, and to punish by civil law those who speak against them or their religion, he says, "Love your enemies, bless them that curse you, do good to them that hate you, and pray for them which despitefully use you and persecute you ; that ye may be the children of your Father which is in heaven."

How can men be brought to respect God or Jesus Christ by civil penalties upon their bodies and goods ? How can they respect the religion of men who are ready to prosecute and imprison them ? Every principle of the thing is contrary both to the spirit and the letter of Christianity. The religion of Jesus Christ properly exemplified in the daily lives of those who profess it, is the best argument and the strongest defense against blasphemy, both as defined by the Scriptures and by the civil statutes.

SECOND PAPER.

A National Reform friend takes us to task for printing the article a short time ago on the States' forbidding "blasphemy." He says :

"Your editorial under this head was wrong, because it is all based upon a wrong definition of blasphemy. You follow the writings of civilians who know no more than you should know—and not so much. Watson says, 'There can be no blasphemy where there is not an impious purpose to derogate from the divine Majesty and to alienate the minds of others from the love of God. The blasphemer is no other than the calumniator of almighty God.' Such an act is a most heinous sin against God and against man, against government and against its divine Author, and therefore should not be tolerated, but punished."

We knew all the time that the full definition of blasphemy was not given. The object of the article was to expose the evil of that part of the definition which makes blasphemy consist of speaking against the accepted religion. For that reason we did not quote the definition in full, reserving that part of it for another article, which this communication demands, but which would have appeared soon even though he had not written. We quote it from the same authority from which we quoted the other, that is, "Cooley's Constitutional Limitations." He says : —

"Blasphemy has been defined as consisting in speaking evil of the Deity with an impious purpose to derogate from the divine Majesty, and to alienate the minds of others from the love of God."

It is seen that this definition is in substance the same as that quoted by our correspondent from Watson, and therefore the distinction which he would make between the writings of civilians and those of theologians on this point, is not valid. In fact the civilians get the definition from the theologians. And they could get it from no other place because the subject is wholly theological and ecclesiastical. The latter part of the definition involves the speaking against the accepted religion, because when a government forbids any-

body from speaking so as to alienate the minds of others from the love and reverence of God, it has to set up in some form a governmental idea of God, and so to create a national god. Such governmental idea can be only that which is held by the majority in the government; and of course all the majesty it can possibly have is such only as those people can give it. And for anybody to speak in such a way as to alienate the minds of those people from the governmental idea of God, is necessarily held by such government to be blasphemy.

The Russian system is a case in point in which this principle appears in its perfect baldness. As it prohibits the speaking in any such way as to turn anybody's mind from the accepted religion, whoever does so is guilty of blasphemy and incurs the penalty of forfeiture of all civil rights, and banishment to the most remote part of Siberia. Any such system as that is as wicked as blasphemy itself.

Our object in this article, however, is not to defend the previous article, but to examine the merits of the other part of the definition of blasphemy not noticed in that, and that is, of its consisting in "speaking with an impious purpose to derogate from the divine Majesty." We would like our correspondent or anybody else to explain how any man's speaking against God can derogate from the divine Majesty. The majesty of Jehovah does not consist in what men give to Him. He is the eternal God, and is eternal and infinite in majesty as well as in every other attribute. Then what men may or may not do, cannot affect His majesty to the slightest possible degree. If all men on the earth were, to-day, to break out in the most hideous possible reviling of the Lord, that could not affect His majesty in the least. It would cause the further degradation of the men themselves and lessen their own dignity: but it *could not* affect the dignity of God nor degrade Him. Before there ever was a man or intelligent creature, God had all the majesty that He has now and all

that He ever will have, and He would have had that majesty had man never been created.

The creation of all intelligent creatures was not with the proud, selfish purpose of building Himself up, or of increasing His dignity ; but it was out of love to them, that they might have the joy of eternal joy in His presence. And all these intelligences ever can do is either in gratitude to Him to enjoy eternally the blessedness of that joy, or by sin to rob themselves of it. If any choose to rob themselves of it, as many have chosen, that does not in the least derogate from the divine majesty. If any choose to enjoy it, as untold myriads have chosen, that does not add any to His majesty. He is the self-existing One. Complete in Himself, in every perfection, nothing ever can derogate from His divine majesty. Therefore such a definition of blasphemy expressing such an idea of the Deity as that He can be robbed of His divine majesty, is in itself blasphemy.

The truth is, that the idea expressed in these definitions of blasphemy is wholly pagan. It is becoming only to man-made gods, as all but Jehovah have ever been. The gods of the heathen have always been only such as the heathen themselves made. When men make a god, it is evident on the face of it that all the majesty which that god can ever have, is such as those men can give to him. Therefore the more worshipers that god has the more majesty he has ; the fewer worshipers, the less majesty : consequently, when anybody speaks against those gods in a way to lessen men's reverence for them, this is to derogate from their majesty.

If, for instance, one of these gods had fifty thousand worshipers, he had, comparatively, a good deal of majesty ; but if twenty-five thousand of these worshipers should turn against him, he would have only half as much majesty as he had before ; and if *all* his worshipers should desert him, he would have no majesty at all.

This legal definition of blasphemy, and those who defend it, do, therefore, put Jehovah, the self-existent One, the God and Father of our Lord Jesus Christ,—they do put Him upon a level with all the heathen gods, as One who derives His majesty from men, and One from whose majesty the words and actions of men can derogate. And as real blasphemy is to attribute to God that which is contrary to His nature, and does not belong to Him ; or to deny what does belong to Him ; and as the legal definition of blasphemy does both of these ; it is demonstrated that the legal definition of blasphemy is in itself blasphemous.

But it is asked, Did not Jehovah Himself forbid blasphemy and punish it? Yes, He did and He does yet. But He never did forbid it because He was afraid He would lose some of his majesty. Not at all. He forbids it because it is sin ; because it is wickedness ; because it is rebellion against divine authority and ruinous to the individual. And this is why it is that when civil governments undertake to punish it, they usurp the authority of God.

Again, in all the statute books on this subject, it is treated as an offense against God, which only argues that the Lord is not capable of dealing with offenses against Himself, and that therefore the government must take it upon itself to help Him. This is only again to come down to the pagan idea, and to put the true God upon a level with all the man-made gods, which, of course, are incapable of dealing with offenders.

There is an old lesson upon this subject which we would sincerely commend to the careful study of judges, jurists, lawyers, and National Reformers. It is recorded in the sixth chapter of Judges. Israel had fallen into idolatry and was overrun by the Midianites. Gideon was called of the Lord to save Israel from the hand of the Midianites. The great majority of the people of his own city, and even his own father, were worshipers of Baal. Gideon was directed to throw down the altar of Baal and cut down the Asherah that

was by it, and build an altar unto the Lord, and take a young bullock, and offer it for a burnt offering, and to burn it with the wood of the Baalim which he had dethroned. And because there were so many of the idol worshipers there, he did not dare to do it in the day-time and did it at night. When the people arose the next morning, and went out to worship, they found their gods were destroyed.

Somebody had "derogated" immensely from the "majesty" of Baal. Such a thing as that could not be suffered. They set on foot a diligent investigation to discover the one who had so wickedly "blasphemed." "And when they inquired and asked, they said, Gideon the son of Joash hath done this thing. Then the men of the city said unto Joash, bring out thy son, that he may die; because he hath cast down the altar of Baal, and because he hath cut down the grove that was by it. And Joash said unto all that stood against him, Will ye plead for Baal? Will ye save him? . . . *If he be a god let him plead for himself*, because one hath cast down his altar."

Joash was wise. That decision is sound. It would be well if the legislators and the judges of the different States and of the United States were up to the same level and would allow that when offenses are committed against the Lord, He is capable of dealing with those offenses himself. Let them leave such questions entirely to the Lord, and thus show that they really believe Him to be what they profess to believe He is.

Civil laws against blasphemy are becoming only to pagan and neo-pagan systems; the one, having only such gods as they make to themselves, whose gods only derive their majesty from men and have only such as men give them; the other, recognizing a living and self-existent God, yet usurping His authority and His prerogative.

The government of the United States, as its Constitution declares, and its framers and makers intended, is distinct from both these; and by its Constitution's absolutely for-

bidding religious tests and religious legislation, stands in harmony with the word of Jehovah, the living and true God, the God and Father of our Lord Jesus Christ, the Saviour of sinners, whose majesty is His own, eternal and infinite, and never can be derogated from ; and who is abundantly able to deal with offenders without any of the meddling mediumship of earthly governments.

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THE
NATIONAL SUNDAY LAW,

ARGUMENT OF

ALONZO T. JONES

BEFORE THE

United States Senate Committee on Education and Labor;

AT

WASHINGTON, D. C., DEC. 13, 1888.

AMERICAN SENTINEL,
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INTRODUCTION.

THIS pamphlet is a report of an argument made upon the national Sunday bill introduced by Senator Blair in the Fiftieth Congress. It is not, however, exactly the argument that was made before the Senate Committee, as there were so many interruptions in the course of my speech that it was impossible to make a connected argument upon a single point. By these questions, etc., my argument was not only forced to take a wider range than was intended when I began to speak, but I was prevented from making the definite argument that I designed to present. I do not speak of these interruptions and counter-arguments by way of complaint, but only to explain why this pamphlet is issued. Nevertheless it is a fact that while there were eighteen speeches before mine, occupying three hours, in all of which together there were only one hundred and eighty-nine questions and counter-arguments by all the members of the Committee who were present, I was interrupted by the Chairman alone, *one hundred and sixty-nine times in ninety minutes*, as may be seen by the official report of the hearing.—*Fiftieth Congress, Second Session, Messages and Documents No. 43, pp. 73-102.*

National Sunday legislation, is matter of national interest. While it is true that this particular Sunday-rest bill did not become a law—the legislation having died with the expiration of the Fiftieth Congress—it is also true that those who demanded, formulated, and promoted this legislation never slackened their efforts, and they have now, 1892, attained the grand object of their ambition—they have the national Government fully committed to the whole course of religious legislation exposed in this argument.

In the Fifty-second Congress, first session, the Sunday-law advocates concentrated all their forces and all their energies upon the point of securing the closing of the World's Fair on

Sunday, by Act of Congress. They sent to Congress, "petitions" backed up by threats so overbearing that their threats were denounced on the floors of Congress as an abuse of the right of petition. The following is but a fair sample of these "petitions": —

"*Resolved*, That we do hereby pledge ourselves and each other, that we will from this time henceforth refuse to vote for or support for any office or position of trust, any member of Congress, either Senator or Representative, who shall vote for any further aid of any kind for the World's Fair, except on conditions named in these resolutions."

Nevertheless, arrogant and abusive of the right of petition as they were, they had their intended effect—Congress surrendered, and in spite of the Constitution, and in disregard of solemn oaths to maintain the Constitution, this legislation was enacted, *as religious legislation*, at the demand of the churches and *because* they demanded it. That the legislation was religious, and consciously and intentionally so, is clearly shown by all the proceedings. Senator Hawley, who was the chief advocate of the measure, said of it these words: —

"Everybody knows what the foundation is. It is founded in religious belief."

And in advocating it he regretted that he was not "the most eloquent clergyman," that he might do the subject justice. Upon this he said: —

"I wish, Mr. President, that I were the most eloquent clergyman, the most eloquent of those staunch old sturdy divines who have honored American citizenship as well as American Christianity, that I might give something more than this feeble expression of my belief in the serious importance of this vote. But I can quote a few words—only a few out of the many."

Then to make up what he himself lacked in this line, he quoted from letters from Archbishop Ireland, Archbishop Gross, and Archbishop Riordan, of the Catholic Church; and from the bishops of the Protestant Episcopal Church; and then in another speech the next day, further supported this by citing all the bishops of the Methodist Episcopal Church, both North and South.

Senator Pepper said flatly :—

“To-day we are engaged in a theological discussion concerning the observance of the first day of the week.”

So entirely was the discussion theological, that the chaplain of the Senate, in reporting it to the New York *Independent*, July 28, 1892, said :—

“During this debate you might have imagined yourself in a general council or assembly or synod or conference, so pronounced was one senator after another.”

That it was done distinctly and positively at the demand and under the threats of the churches, is equally clear. Senator Hiscock, who was second only to Senator Hawley in his advocacy of the measure, said :—

“If I had charge of this amendment in the interest of the Columbian Exposition, *I would write the provision for the closure in any form that the religious sentiment of the country demands*, and not stand here hesitating and quibbling about it. Rather than let the public sentiment against the Exposition being opened on Sunday, be re-enforced by the opposition in the other House against any legislation of this kind in the interest of the Exposition, *I say to the junior senator from Illinois [Mr. Palmer], he had better yield to this sentiment*, and not let it go out to the country that there is the slightest doubt that if this money is appropriated, the Exposition will be closed on Sunday. . . . If I were interested in this measure as I might be interested if it were located in my own State, I should make the closure provision *satisfactory to those petitioners* who have memorialized us against the desecration of the Lord's day.”

By taking the 13,000,000 people who, according to the census of 1890, are church members in the United States, and then adding to these, “attendants, associates, and sympathizers” “who have a profound respect for” the church, “whether they believe in it or not,” Senator Hawley succeeded in creating from forty-five to fifty millions of the people of this country who have more or less of religious profession or sympathy.” Then upon this he made the following argument :—

“There is no use in endeavoring to escape responsibility. If the Senate to-day decides that it will not close that Exhibition on Sunday, the Exhibition will be opened on that day, and you will

have offended more than 40,000,000 of people—seriously and solemnly offended them. No wise statesman or monarch of modern times, no satrap of Rome, would have thought it wise to fly in the face of a profound conviction of the people he governed, no matter if he thought it a profound error. It is not wise statesmanship to do it. . . .

“Now if gentlemen repudiate this, if they desire to reject it, if they deny that this is in the true sense of the word a religious nation, I should like to see the disclaimer put in white and black and proposed by the Congress of the United States. Write it. How would you write it? . . . Word it, if you dare; advocate it, if you dare. *How many who voted for it would ever come back here again?* None I hope. . . . You endanger yourselves by opposing it.”

Upon these and other evidences which he had obtained, “Rev.” H. H. George, a National Reformer from away back, and who had spent the whole session at Washington as an avowed “Christian lobbyist,” declared in a speech in Patterson, N. J., Aug. 7, 1892:—

“I have learned that . . . we hold the United States Senate in our hands.”

And in reply to the proposition that the Sunday Closing Act might be repealed at the next session, he declared:—

“It cannot be repealed. We mean to maintain it at the point of the bayonet.”

And another one of the same kind of preachers, in a sermon in Pittsburg, July 17, 1892, said:—

“That the church has weight with great political or governing bodies, has been demonstrated most effectually in the late World’s Fair matter, when the United States Senate, the highest body in the country, listened to the voice of religion and passed the World’s Fair \$5,000,000 appropriation bill with the church-instituted proviso that the gates of the great Exposition should be opened upon Sunday. That grand good fact suggests to the Christian’s mind that if this may be done, so may other equally needful measures. The church is gaining power continually, and its voice will be heard in the future much oftener than in the past.”

These facts and evidences plainly show that in this legislation the government of the United States has been handed over bodily

to the churches; that the churches know it, and that henceforth the government is to be used by the combined churches as a tool by which they will execute upon all, their arbitrary will.

These evidences also demonstrate that a number of points made in my argument before the Senate Committee in 1888 have now been met to the full, and that therefore those statements were not made at random and without knowledge. This is not only true of these statements, but it is equally true of the other statements which remain — these too will yet be met to the full in the progress of this great evil of religious legislation now so positively and so fully entered upon.

For, in addition to this legislation, and in advance of it, the Supreme Court of the United States rendered a decision Feb. 29, 1892, in which the Court unanimously declared this to be “a religious people” and “a Christian Nation,” and so accomplished all that was intended to be accomplished in the religious Amendment to the Constitution proposed by Senator Blair and cited on pages 96 and 97 of this discussion.

The scope that was given to the subject by questions asked of me by the Senate Committee, has opened the way for a somewhat exhaustive treatment of the subject. These questions being raised by United States senators,—men of national affairs,—show that a wider circulation of this matter is not out of place. The subject is worthy of the careful attention of the whole American people.

In enlarging as I have upon the matter presented in the original hearing, the meaning or intention of any statement has not been changed in the slightest degree. The argument is submitted to the American people with the earnest hope that they will give thoughtful consideration to the principles involved. The positions taken will bear the severest test of every form of just criticism.

A. T. J.

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THE NATIONAL SUNDAY LAW.

ARGUMENT OF ALONZO T. JONES BEFORE THE SENATE
COMMITTEE, WASHINGTON, D. C.

Senator Blair. — There are gentlemen present who wish to be heard in opposition to the bill. Prof. Alonzo T. Jones, of Battle Creek College, Mich., is one of those who have spoken to me in regard to it. Will you not state, Prof. Jones, what your desire is? I have no doubt that we can obtain leave of the Senate to sit during its session to-day. It is exceedingly desirable to go on with this hearing, and complete it now. How would such an arrangement comport with your convenience? First, state, please, whom you represent, and your reasons for desiring to be heard.

Mr. Jones. — Mr. Chairman, I represent the people known as Seventh-day Adventists. It is true, we have been entirely ignored by the other side. The very small "*sect*," as they stated it, of Seventh-day Baptists has been recognized, but we are more than three times their number, and many times their power in the real force of our work. We have organizations in every State and Territory in the Union. We have the largest printing-house in Michigan; the largest printing-house on the Pacific Coast; the largest Sanitarium in the world; a college in California and one in Michigan; an academy in Massachusetts; a printing establishment in Basel, Switzerland; one in Christiana,

Norway ; and one in Melbourne, Australia. Our mission work has enlarged until, besides embracing the greater part of Europe, it has also extended nearly around the world ; and we desire a hearing, with the consent of the Committee.

Senator Blair. — Where do you reside ?

Mr. Jones. — At present in Michigan. My home for the past four years has been in California. I am now teaching history in Battle Creek College, Mich.

I must say in justice to myself, and also in behalf of the body which I represent, that we dissent almost wholly, I might say, wholly, from the position taken by the representative of the Seventh-day Baptists. I knew, the instant that Dr. Lewis stated what he did here, that he had "given his case away." We have not given our case away, Senators, nor do we expect to give it away. We expect to go deeper than any have gone at this hearing, both upon the principles and upon the facts, as well as upon the logic of the facts.

Senator Blair. — This matter is all familiar to you. You are a professor of history. Can you not go on this afternoon ?

Mr. Jones. — Yes, if I can have a little space between now and this afternoon to get my papers together. I have some references to read that I did not bring with me this morning.

Senator Blair. — Very well.

ARGUMENT.

Senator Blair. — You have a full hour, Professor. It is now half past one.

Mr. Jones. — There are three particular lines in which I wish to conduct the argument : First, the

principles upon which we stand ; second, the historical view ; and, third, the practical aspect of the question.

The principle upon which we stand is that civil government is civil, and has nothing to do in the matter of legislation, with religious observances in any way. The basis of this is found in the words of Jesus Christ in Matt. 22:21. When the Pharisees asked whether it was lawful to give tribute to Cæsar or not, he replied : "Render therefore unto Cæsar the things which are Cæsar's ; and unto God the things that are God's."

In this the Saviour certainly separated that which pertains to Cæsar from that which pertains to God. We are not to render to Cæsar that which pertains to God ; we are not to render to God by Cæsar that which is God's.

Senator Blair.— May not the thing due to Cæsar be due to God also ?

Mr. Jones.— No, sir. If that be so, then the Saviour did entangle himself in his talk, the very thing which they wanted him to do. The record says that they sought "how they might entangle him in his talk." Having drawn the distinction which he has, between that which belongs to Cæsar and that which belongs to God, if it be true that the same things belong to both, then he did entangle himself in his talk ; and where is the force in his words which command us to render to Cæsar that which belongs to Cæsar, and to God the things that are God's ?

Senator Blair.— Is it not a requirement of God's that we render to Cæsar that which is due to Cæsar ?

Mr. Jones.— Yes.

Senator Blair.— If Cæsar is *society*, and the Sabbath is required for the good of society, does not God require

us to establish the Sabbath for the good of society? and if society makes a law accordingly, is it not binding?

Mr. Jones.—It is for the good of society that men shall be Christians; but it is not in the province of the State to make Christians. For the State to undertake to do so would not be for the benefit of society; it never has been, and it never can be.

Senator Blair.—Do you not confuse this matter? A thing may be required for the good of society, and for that very reason be in accordance with the will and the command of God. God issues his commands for the good of society, does he not? God does not give us commands that have no relation to the good of society.

Mr. Jones.—His commands are for the good of man.

Senator Blair.—Man is society. It is made up of individual men.

Mr. Jones.—But in that which God has issued to man for the good of men he has given those things which pertain solely to man's relationship to his God; and he has also given things which pertain to man's relationship to his fellow-men. With those things in which our duty pertains to our fellow-men, civil government can have something to do.

Senator Blair.—Man would obey God in obeying civil society.

Mr. Jones.—I will come to that point. In the things which pertain to our duty to God, with the individual's right of serving God as one's conscience dictates, society has nothing to do; but in the formation of civil society, there are certain rights surrendered to the society by the individual, without which society could not be organized.

Senator Blair.—That is not conceded. When was this doctrine of a compact in society made? It is the philosophy of an infidel.

Mr. Jones. It is made wherever you find men together.

Senator Blair.—Did you and I ever agree to it? Did it bind us before we were *compos mentis*?

Mr. Jones.—Certainly. Civil government is an ordinance of God.

Senator Blair.—Then it is not necessarily an agreement of man?

Mr. Jones.—Yes, sir, it springs from the people.

Senator Blair.—As to the compact in society that is talked about, it is not conceded that it is a matter of personal and individual agreement. Society exists altogether independent of the volition of those who enter into it. However, I shall not interrupt you further. I only did this because of our private conversation, in which I thought you labored under a fallacy in your fundamental proposition, that would lead all the way through your argument. I suggested that ground, and that is all.

Mr. Jones.—I think the statement of the Declaration of Independence is true, that "Governments derive their just powers from the consent of the governed."

Senator Blair.—I do not controvert that.

Mr. Jones.—Of all men in the world, Americans ought to be the last to deny the social compact theory of civil government. On board the "Mayflower," before the Pilgrim Fathers ever set foot on these shores, the following was written:—

"In the name of God, Amen. We, whose names are underwritten, the loyal subjects of our dread sovereign,

Lord King James, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, etc., having undertaken for the glory of God, and advancement of the Christian faith, and the honor of our king and country, a voyage to plant the first colony in the northern parts of Virginia; *do by these presents, solemnly and mutually, in the presence of God and one another, covenant and combine ourselves together into a civil body politick*, for our better ordering and preservation, and furtherance of the ends aforesaid: and by virtue hereof do enact, constitute, and frame such just and equal laws, ordinances, acts, constitutions, and officers, from time to time, as shall be thought most meet and convenient for the general good of the colony; unto which we promise all due submission and obedience. In witness whereof we have hereunto subscribed our names at Cape Cod, the eleventh of November, in the reign of our sovereign, Lord King James, of England, France, and Ireland, the eighteenth, and of Scotland, the fifty-fourth, Anno Domini, 1620."

The next American record is that of the fundamental orders of Connecticut, 1638-39, and reads as follows:—

"Forasmuch as it hath pleased the Allmighty God by the wise disposition of his diuine prudence so to order and dispose of things that we, the inhabitants and residents of Windsor, and Harteford, and Wethersfield, are now cohabiting and dwelling in and vppon the river of Conectecotte and the lands thereunto adioyneing; and well knowing where a people are gathered together the word of God requires that to mayntayne the peace and vnion of such a people there should be an orderly and decent gourment established acording to God, to order and dispose of the affayres of the people at all seasons; as oçcation shall require; *doe therefore assotiate and conioyne ourselues to be as one publike State or commonwelth*; and doe for ourselues and our successors and such as shall adioyned to vs att any tyme hereafter, enter into combination and confederation together," etc.

And, sir, the first Constitution of your own State — 1784 — in its bill of rights, declares : —

“I. All men are born equally free and independent ; therefore, all government of right originates from the people, *is founded in consent*, and instituted for the general good.”

“III. When men enter into a state of society, they surrender some of their natural rights to that society, in order to insure the protection of others ; and without such an equivalent, the surrender is void.

“IV. Among the natural rights, some are in their very nature unalienable, because no equivalent can be received for them. Of this kind are the rights of conscience.”

And in Part 2, of that same Constitution, under the division of the “form of government,” are these words : —

“The people inhabiting the territory formerly called the province of New Hampshire, do *hereby solemnly and mutually agree with each other* to form themselves into a free, sovereign, and independent body politic, or State, by the name of the State of New Hampshire.”

In the Constitution of New Hampshire of 1792, these articles are repeated word for word. They remain there without alteration in a single letter under the ratification of 1852, and also under the ratification of 1877. Consequently, sir, the very State which sends you to this capitol is founded upon the very theory which you here deny. This is the doctrine of the Declaration of Independence ; it is the doctrine of the Scripture ; and therefore we hold it to be eternally true.

These sound and genuine American principles — civil governments deriving their just powers from the consent of the governed, and the inalienability of the

rights of conscience,—these are the principles asserted and maintained by Seventh-day Adventists.

Senator Blair.—But society is behind the government which society creates.

Mr. Jones.—Certainly. All civil government springs from the people, I care not in what form it is.

Senator Blair.—That is all agreed to.

Mr. Jones.—But the people, I care not how many there are, have no right to invade your relationship to God, nor mine. That rests between the individual and God, through faith in Jesus Christ; and as the Saviour has made this distinction between that which pertains to Cæsar and that which is God's, when Cæsar exacts of men that which pertains to God, then Cæsar is out of his place, and in so far as Cæsar is obeyed there, God is denied. When Cæsar—civil government—exact of men that which is God's, he demands what does not belong to him; in so doing Cæsar usurps the place and the prerogative of God, and every man who regards God or his own rights before God, will disregard all such interference on the part of Cæsar.

This argument is confirmed by the apostle's commentary upon Christ's words. In Rom. 13:1-9, is written:—

“Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God. Whosoever therefore resisteth the power, resisteth the ordinance of God: and they that resist shall receive to themselves damnation. For rulers are not a terror to good works, but to the evil. Wilt thou then not be afraid of the power? do that which is good, and thou shalt have praise of the same: for he is the minister of God to thee for good. But if thou do that which is evil, be afraid; for he beareth not the sword in vain: for he is the minister of God, a revenger to execute wrath upon him that doeth evil. Wherefore ye

must needs be subject not only for wrath, but also for conscience' sake. For, for this cause pay ye tribute also: for they are God's ministers, attending continually upon this very thing. Render therefore to all their dues: tribute to whom tribute is due; custom to whom custom; fear to whom fear; honor to whom honor. Owe no man any thing, but to love one another: for he that loveth another hath fulfilled the law. For this, Thou shalt not commit adultery, Thou shalt not kill, Thou shalt not steal, Thou shalt not bear false witness, Thou shalt not covet; and if there be any other commandment, it is briefly comprehended in this saying, namely, Thou shalt love thy neighbor as thyself."

It is easy to see that this scripture is but an exposition of Christ's words, "Render therefore unto Cæsar the things which are Cæsar's." In the Saviour's command to render unto Cæsar the things that are Cæsar's, there is plainly a recognition of the rightfulness of civil government, and that civil government has claims upon us which we are in duty bound to recognize, and that there are things which duty requires us to render to the civil government. This scripture in Romans 13 simply states the same thing in other words: "Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God."

Again: the Saviour's words were in answer to a question concerning tribute. They said to him, "Is it lawful to give tribute unto Cæsar, or not?" Rom. 13: 6 refers to the same thing, saying, "For, for this cause pay ye tribute also: for they are God's ministers, attending continually upon this very thing." In answer to the question of the Pharisees about the tribute, Christ said, "Render therefore unto Cæsar the things which are Cæsar's." Rom. 13: 7, taking up the same thought, says, "Render therefore to all their dues."

tribute to whom tribute is due ; custom to whom custom ; fear to whom fear ; honor to whom honor." These references make positive that which we have stated,—that this portion of Scripture (Rom. 13 : 1–9) is a divine commentary upon the words of Christ in Matt. 22 : 17–21.

The passage refers first to civil government, the higher powers,—the powers that be. Next it speaks of rulers, as bearing the sword and attending upon matters of tribute. Then it commands to render tribute to whom tribute is due, and says, "Owe no man any thing ; but to love one another : for he that loveth another hath fulfilled the law." Then he refers to the sixth, seventh, eighth, ninth, and tenth commandments, and says, "If there be any other commandment, it is briefly comprehended in this saying, namely, Thou shalt love thy neighbor as thyself."

There are other commandments of this same law to which Paul refers. There are the four commandments of the first table of the law,—the commandments which say, "Thou shalt have no other gods before me ;" "Thou shalt not make unto thee any graven image, or any likeness of any thing ;" "Thou shalt not take the name of the Lord thy God in vain ;" "Remember the Sabbath day to keep it holy." Then there is the other commandment in which are briefly comprehended all these, "Thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy mind, and with all thy strength."

Paul knew full well these commandments. Why, then, did he say, "If there be any other commandment, it is briefly comprehended in this saying, namely, Thou shalt love thy neighbor as thyself" ? — Because he was writing concerning the principles set forth by the Saviour, which relate to our duties to civil government.

Our duties under civil government pertain solely to the government and to our fellow-men, because the powers of civil government pertain solely to men in their relations one to another, and to the government. But the Saviour's words in the same connection entirely separated that which pertains to God from that which pertains to civil government. The things which pertain to God are not to be rendered to civil government—to the powers that be; therefore Paul, although knowing full well that there were other commandments, said, "If there be any other commandment, it is briefly comprehended in this saying, namely, Thou shalt love thy neighbor as thyself;" that is, if there be any other commandment which comes into the relation between man and civil government, it is comprehended in this saying, that he shall love his neighbor as himself; thus showing conclusively that the powers that be, though ordained of God, are so ordained simply in things pertaining to the relation of man with his fellow-men, and in those things alone.

Further: as in this divine record of the duties that men owe to the powers that be, there is no reference whatever to the first table of the law, it therefore follows that the powers that be, although ordained of God, have nothing whatever to do with the relations which men bear toward God.

As the ten commandments contain the whole duty of man, and as in the enumeration here given of the duties that men owe to the powers that be, there is no mention of any of the things contained in the first table of the law, it follows that none of the duties enjoined in the first table of the law of God, do men owe to the powers that be; that is to say, again, that the powers that be, although ordained of God, are not ordained of God in anything pertaining to a single duty

enjoined in any one of the first four of the ten commandments. These are duties that men owe to God, and with these the powers that be can of right have nothing to do, because Christ has commanded to render unto God—not to Cæsar, nor by Cæsar—that which is God's. Therefore, as in his comment upon the principle which Christ established, Paul has left out of the account the first four commandments, so we deny, forever, the right of any civil government to legislate in anything that pertains to men's duty to God under the first four commandments. This Sunday bill does propose to legislate in regard to the Lord's day. If it is the Lord's day, we are to render it to the Lord, not to Cæsar. When Cæsar exacts it of us, he is exacting what does not belong to him, and is demanding of us that with which he should have nothing to do.

Senator Blair.—Would it answer your objection in that regard, if, instead of saying "the Lord's day," we should say, "Sunday"?

Mr. Jones.—No, sir. Because the underlying principle, the sole basis, of Sunday, is ecclesiastical, and legislation in regard to it is ecclesiastical legislation. I shall come more fully to the question you ask, presently.

Now do not misunderstand us on this point. We are Seventh-day Adventists; but if this bill were in favor of enforcing the observance of the seventh day as the Lord's day, we would oppose it just as much as we oppose it as it is now, for the reason that civil government has nothing to do with *what* we owe to God, or whether we *owe* anything or not, or whether we *pay* it or not.

Allow me again to refer to the words of Christ to emphasize this point. At that time the question was

upon the subject of tribute, whether it was lawful to give tribute to Cæsar or not. In answering the question, Christ established this principle: "Render therefore unto Cæsar the things which are Cæsar's, and unto God the things that are God's." That tribute money was Cæsar's; it bore his image and superscription; it was to be rendered to him. *Now*, it is a question of rendering Sabbath observance, and it is a perfectly legitimate and indeed a necessary question to ask right here: Is it lawful to render Lord's day observance to Cæsar? The reply may be in His own words: Show me the Lord's day; whose image and superscription does it bear?—The Lord's, to be sure. This very bill which is under discussion here to-day declares it to be the Lord's day. Then the words of Christ apply to this. Bearing the image and superscription of the Lord, Render therefore to the Lord the things that are the Lord's, and to Cæsar the things that are Cæsar's. It does not bear the image and superscription of Cæsar; it does not belong to him; it is not to be rendered to him.

Again: take the institution under the word *Sabbath*: Is it lawful to render Sabbath observance to Cæsar or not? Show us the Sabbath; whose image and superscription does it bear? The commandment of God says, it "is the Sabbath of the Lord thy God." It bears his image and superscription, and his only; it belongs wholly to him; Cæsar can have nothing to do with it. It does not belong to Cæsar; its observance cannot be rendered to Cæsar, but only to God; for the commandment is, "Remember the Sabbath day, *to keep it holy*." If it is not kept holy, it is not kept at all. Therefore, belonging to God, bearing his superscription, and not that of Cæsar, according to Christ's command-

ment, it is to be rendered only to God ; because we are to render to God that which is God's, and the Sabbath is the Sabbath of the Lord thy God. Sabbath observance, therefore, or Lord's day observance, whichever you may choose to call it, never can be rendered to Cæsar. And Cæsar never can demand it without demanding that which belongs to God, or without putting himself in the place of God, and usurping the prerogative of God.

Therefore, we say that if this bill were framed in behalf of the real Sabbath of the Lord, the seventh day, the day which we observe ; if this bill proposed to promote its observance, or to compel men to do no work upon that day, we would oppose it just as strongly as we oppose it now, and I would stand here at this table and argue precisely as I am arguing against this, and upon the same principle,—the principle established by Jesus Christ,—that with that which is God's the civil government never can of right have anything to do. That duty rests solely between man and God ; and if any man does not render it to God, he is responsible only to God, and not to any man, nor to any assembly or organization of men, for his failure or refusal to render it to God ; and any power that undertakes to punish that man for his failure or refusal to render to God what is God's, puts itself in the place of God. Any government which attempts it, sets itself against the word of Christ, and is therefore antichristian. This Sunday bill proposes to have this Government do just that thing, and therefore I say, without any reflection upon the author of the bill, this national Sunday bill which is under discussion here to-day is *antichristian*. But in saying this I am not singling out this contemplated law as worse than all other Sunday

laws in the world. There never was a Sunday law that was not antichristian, and there never can be one that will not be antichristian.

Senator Blair.— You oppose all the Sunday laws of the country, then?

Mr. Jones.— Yes, sir.

Senator Blair.— You are against all Sunday laws?

Mr. Jones.— Yes, sir; we are against every Sunday law that was ever made in this world, from the first enacted by Constantine to this one now proposed; and we would be equally against a Sabbath law if it were proposed, for that would be antichristian, too.

Senator Blair.— State and national, alike?

Mr. Jones.— State and national, sir. I shall give you historical reasons presently, and the facts upon which these things stand, and I hope they will receive consideration.

George Washington, I believe, is yet held in some respectful consideration—he is by the Seventh-day Adventists at least—and he said, “Every man who conducts himself as a good citizen is accountable alone to God for his religious faith, and is to be protected in worshiping God according to the dictates of his own conscience.” And so should we be protected, so long as we are law-abiding citizens. There are no saloon keepers among us. We are as a body for prohibition; and as for the principles of Christian temperance, we conscientiously practice them. In short, you will find no people in this country or in the world, more peaceable and law-abiding than we endeavor to be. We teach the people according to the Scripture, to be subject to the powers that be; we teach them that the highest duty of the Christian *citizen* is strictly to obey the law,—to obey it not from fear of punishment, but out of respect

for governmental authority, and out of respect for God, and conscience toward him.

Senator Blair.—That is the common Mormon argument. The Mormons say their institution is a matter of religious belief. Everybody concedes their right to believe in Mormonism, but when they come to the point of practicing it, will it not be to the disturbance of others?

Mr. Jones.—I should have come to that, even though you had not asked the question. But as you have introduced it, I will notice it now. My argument throughout is that the civil government can never have anything to do with men's duties under the first four of the ten commandments; and this is the argument embodied in Washington's words. These duties pertain solely to God. Now polygamy is adultery. But adultery is not a duty that men owe to God, in any way, much less does it come under any of the first four commandments. This comes within the inhibitions of the second table of the law of God—the commandments embracing duty to our neighbor. How men should conduct themselves toward their fellow-men, civil government must decide; that is the very purpose of its existence. Consequently, the practice of polygamy lying wholly within this realm, is properly subject to the jurisdiction of civil government. My argument does not in the least degree countenance the principles of Mormonism, nor can it fairly be made to do so. I know that it is offered as a very ready objection; but those who offer it as an objection and as an argument against the principles upon which we stand, thereby make adultery a religious practice. But against all such objection and argument, I maintain that adultery is not in any sense a religious practice. It is not only highly irreligious,

but it is essentially *uncivil*; and because it is uncivil, the civil power has as much right to blot it out as it has to punish murder, or thieving, or perjury, or any other uncivil thing. Moreover, we deny that honest occupations on any day of the week, or at any time whatever, can ever properly be classed with adultery.

There are also people who believe in community of property in this world. Suppose they base their principles of having all things in common upon the apostolic example. Very good. They have the right to do that. Every one who sells his property and puts it into a common fund, has a right to do that if he chooses; but suppose these men in carrying out that principle, and in claiming that it is a religious ordinance, were to take without consent your property or mine into their community. Then what?—The State forbids it. It does not forbid the exercise of their religion; but it protects your property and mine, and in exercising its prerogative of protection, it forbids theft. And in forbidding theft, the State never asks any questions as to whether thieving is a religious practice. So also as to polygamy, which is practiced among the Mormons. But let us consider this in another view.

It is every man's right in this country, or anywhere else, to worship an idol if he chooses. That idol embodies his conviction of what God is. He can worship only according to his convictions. It matters not what form his idol may have, he has the right to worship it anywhere in all the world, therefore in the United States. But suppose that in the worship of that god he attempts to take the life of one of his fellow-men, and offer it as a human sacrifice. The civil government exists for the protection of life, liberty, property, etc., and it must punish that man for his attempt upon the life of

his fellow-man. The civil law protects man's life from such exercise of any one's religion, but in punishing the offender, the State does not consider the question of his religion at all. It would punish him just the same if he made no pretensions to worship or to religion. It punishes him for his incivility, for his attempt at murder, not for his irreligion. I repeat, the question of religion is not considered by the State; the sole question is, Did he threaten the life of his fellow-man? Civil government must protect its citizens. This is strictly within Cæsar's jurisdiction; it comes within the line of duties which the Scripture shows to pertain to our neighbor, and with it Cæsar has to do.

Therefore it is true that the State can never of right legislate in regard to any man's religious faith, or in relation to anything in the first four commandments of the decalogue. But if in the exercise of his religious convictions under the first four commandments, a man invades the rights of his neighbor, as to life, family, property, or character, then the civil government says that it is unlawful. Why? Because it is irreligious or immoral?—Not at all; but because it is uncivil, and for that reason only. It never can be proper for the State to ask any question as to whether any man is religious or not, or whether his actions are religious or not. The sole question must ever be, Is the action civil or uncivil.

Senator Blair.—Now apply that right to this case—to the institution of the Sabbath among men for the good of men.

Mr. Jones.—Very good, we will consider that. Here are persons who are keeping Sunday. It is their right to work on every other day of the week. It is their right to work on *that* day, if they desire; but they

are keeping that day, recognizing it as the Sabbath. Now while they are doing that which is their right, here are other people who are keeping Saturday, and others who are keeping Friday. The Mohammedans recognize Friday. But we will confine ourselves to those who keep Saturday, the seventh day, as the Sabbath. Those who keep Sunday, and who want legislation for that day, ask that other people shall be forbidden to work on Sunday, because they say it disturbs their rest, it disturbs their worship, etc.; and they claim that their rights are not properly protected. Do they really believe that in principle? Let us see. They will never admit (at any rate, I have never yet found one of them who would) that their work on Saturday disturbs the rest, or the worship, of the man who rests on Saturday. If their work on Saturday does not disturb the Sabbath rest, or the worship, of the man who keeps Saturday, then upon what principle is it that our work on Sunday disturbs the rest of those who keep Sunday? I have never found one on that side yet who would admit the principle. If their work does not disturb our rest and our worship, our work *cannot* disturb their rest or their worship. More than this: In a general Sunday convention held in San Francisco, at which I was present, there was a person who spoke on this very question. Said he: "There are some people, and a good many of them in this State, who do not believe in Sunday laws, and who keep Saturday as the Sabbath; but," said he, "the majority must rule. The vast majority of the people do keep Sunday; their rights must be respected, and they have a right to enact it into law." I arose and said, "Suppose the Seventh-day people were in the majority, and they should go to the legislature and ask for a law to compel you to keep

Saturday out of respect to their rights. Would you consider it right?" There was a murmur all over the house, "No."

Senator Blair.—Upon what ground did they say, No?

Mr. Jones.—That is what I should like to know. They were not logical. Their answer shows that there is no ground in justice nor in right for their claim that the majority should rule in matters of conscience.

Senator Blair.—That does not follow. At least it does not strike me that it follows. The majority has a right to rule in what pertains to the regulation of society, and if Cæsar regulates society, then the majority has a right in this country to say what we shall render to Cæsar.

Mr. Jones.—Very good, but the majority has no right to say what we shall render *to God*; nor has it any right to say that we shall render *to Cæsar* that which is *God's*. If nine hundred and ninety-nine out of every one thousand people in the United States kept the seventh day, that is, Saturday, and I deemed it my right, and made it my choice, to keep Sunday, they would have no right to compel me to rest on Saturday.

Senator Blair.—In other words, you take the ground that for the good of society, irrespective of the religious aspect of the question, society may not require abstinence from labor on Sabbath, if it disturbs others?

Mr. Jones.—As to its disturbing others, I have proved that it does not. The body of your question states my position exactly.

Senator Blair.—You are logical all the way through that there shall be no Sabbath. This question was passed me to ask: "Is the speaker also opposed to all laws against blasphemy?"

Mr. Jones. — Yes, sir. But not because blasphemy is not wrong, but because civil government cannot define blasphemy, nor punish it. Blasphemy pertains to God, it is an offense against him, it is a sin against him.

Senator Blair. — Suppose the practice of it in society at large is hurtful to society?

Mr. Jones. — That will have to be explained. How is it hurtful to society?

Senator Blair. — Suppose it be hurtful to society in this way: A belief in the existence of God, and reverence for the Creator, and a cultivation of that sentiment in society, is for the good of society; is, in fact, the basis of all law and restraint. If the Almighty, who knows everything, or is supposed to, and has all power, has no right to restrain us, it is difficult to see how we can restrain each other.

Mr. Jones. — He has the right to restrain us. He does restrain us.

Senator Blair. — To commonly blaspheme and deride and ridicule the Almighty, would, of course, have a tendency to bring up the children who are soon to be the State, in an absolute disregard of him and his authority. Blasphemy, as I understand it, is that practice which brings the Creator into contempt and ridicule among his creatures.

Mr. Jones. — What is blasphemy here, would not be blasphemy in China, and many other countries.

Senator Blair. — We are not dealing with pagan communities. A regulation that may be appropriate in a pagan community, would not answer men in a Christian community. Do you mean that there is no such thing as blasphemy?

Mr. Jones. — No; I do not mean that.

Senator Blair. — The Chinaman hardly believes in

any god whatever ; at least in no such God as we do. Taking our God and these Christian institutions of ours, what do you understand blasphemy to be ?

Mr. Jones.—There are many things that the Scriptures show to be blasphemy.

Senator Blair.—The power of the law has undertaken in various States to say that certain things are blasphemy.

Mr. Jones.—Precisely ; but if the law proposes to define blasphemy and punish it, why does it not go to the depth of it, and define all and punish all ?

Senator Blair.—Perhaps it may not go as far as it ought. You say you are opposed to all laws against blasphemy, cursing, and swearing ?

Mr. Jones.—In relation to any one of the first four commandments.

Senator Palmer.—Suppose that what is defined as blasphemy in the statutes of the several States, should detract from the observance of the law and regard for it, would you regard laws against it as being improper ?

Mr. Jones.—Under the principle that the Scripture lays down, no legislation in any way can be proper in regard to the first four commandments. There may be many ways in which it would appear very appropriate for civil government to do this or to do that ; but when you have entered upon such legislation, where will you stop ?

Senator Palmer.—Abstaining from blasphemy is a part of the education of the youth of the country.

Mr. Jones.—That is true. If youth are properly educated, they will never blaspheme.

Senator Palmer.—We pass laws for the education of the youth. The question is whether abstention from blasphemy could not be included in the scope of education. Take it on that ground.

Mr. Jones. — Idolatry (and covetousness is idolatry) is no more than a violation of the first commandment: "Thou shalt have no other Gods before me;" and if the State can forbid the violation of the third commandment and the fourth, why may it not forbid the violation of the first and the second, and in that case supplant God at once, and establish an earthly theocracy? That is the only logical outcome.

Senator Blair. — Covetousness is a state of mind; but when it becomes practice by stealing — taking from another without consideration — the law interferes.

Mr. Jones. — Certainly.

Senator Palmer. — There is an infection in blasphemy or in covetousness. For instance, if one covetous man in a neighborhood should infuse the whole neighborhood with covetousness to such an extent that all would become thieves, then covetousness would be a proper subject of legislation.

Mr. Jones. — Never! You forbid the theft, not the covetousness. You cannot invade the condition of mind in which lies the covetousness.

Senator Blair. — We do not say that we must invade the condition of mind; but society has a right to make regulations, because those regulations are essential to the good of society. Society by a major vote establishes a regulation, and we have to obey what is settled by the majority.

Mr. Jones. — How shall it be discovered what is blasphemy, as it is only an offense against God? In the Puritan Theocracy of New England, our historian, Bancroft, says that "the highest offense in the catalogue of crimes was blasphemy, or what a jury should call blasphemy."

Senator Blair. — But the law was behind the jury, and said that the practice should be punished. If a

jury of twelve men said that one had committed the overt act, then it could be punished. It was the majority who made the law, and the jury only found the question of fact after the law had been violated. The jury did not make the law. This is a question as to making the law.

Mr. Jones.—It is not wholly a question only of making the law. The question is whether the law is right when it is made. There is a limit to the law-making power; and that limit is the line which Jesus Christ has drawn. The government has no right to make any law relating to the things that pertain to God, or offenses against God, or religion. It has nothing to do with religion.

Blasphemy, according to Judge Cooley, in his "Constitutional Limitations," "is purposely using words concerning the Supreme Being, calculated and designed to impair and destroy the reverence, respect, and confidence due to him, as the intelligent Creator, Governor, and Judge of the world; . . . a bad motive must exist; there must be a willful, malicious attempt to lessen men's reverence for the Deity, or for the accepted religion."

It is seen at a glance that this comes from the old English system of statutes regulating "offenses against God and religion." That is where this statute is placed in every system of civil law; it could not be placed anywhere else. But offenses against God are to be answered for only at his tribunal; and with religion, or offenses against it, the civil power has nothing to do. It is a perversion of the functions of civil government to have it made a party to religious controversies. It will have ample exercise for its power and jurisdiction to keep religious disputants as well as other people *civil*,

without allowing itself ever to become a partisan in religious disputes and the conservator of religious dogmas.

But according to Judge Cooley's definition, blasphemy is an attempt to lessen men's reverence, not only for the Deity, but for "the accepted religion" as well. But any man in this wide world has the right to lessen men's reverence for the accepted religion, if he thinks that religion to be wrong. Consequently, as I said a moment ago, that which would be counted blasphemy here would not be counted blasphemy in China; and that which is in the strictest accordance with the word of God and the faith of Jesus Christ here, is necessarily blasphemy in China, or in Turkey, or in Russia. A man who preaches the gospel of Jesus Christ in China commits blasphemy under this definition. He does make a willful attempt to lessen men's reverence for their accepted religion, and for the deities recognized in their religion. He has to do so, if he is ever to get them to believe in Christ and the religion of Christ. He has to bring them to the place where they will have no reverence for their deities or for their accepted religion, before they ever can accept the religion of Jesus Christ. It is the same way in Turkey, or any other Mohammedan country, or any heathen country. Wherever the gospel of Jesus Christ is preached in any Mohammedan or heathen country, it is blasphemy under this definition, because its sole object is not only to lessen men's reverence for their deities and for their accepted religion, but to turn them wholly from it, and if possible to obliterate it from their minds.

It is so likewise in Russia. Anybody there who speaks against the accepted religion, or against the saints, or their images, is subject to the penalty of blasphemy, which is banishment for life to Siberia.

But if blasphemy be a proper subject of legislation by civil government, if it be right for a government to make itself the "defender of the faith," then it is perfectly proper for the laws of China to prohibit under whatever penalty it pleases, the preaching of the gospel of Jesus Christ within the Chinese dominions; because its effect is to lessen men's reverence for the deities recognized by China, and for the accepted religion of the country. It is the same way in any of the other countries named. And in that case there is no such thing as persecution on account of religion. The only persecutions that have ever been, were because of men's speaking against the accepted religion. If this principle be correct, then the Roman empire did perfectly right in prohibiting under penalty of death the preaching of the religion of Jesus Christ. Whenever Paul, or any of his brethren, spoke in the Roman empire, they blasphemed according to the Roman law. They were held as blasphemers, and were put to death under the very principle of this definition, which is the principle of the American statutes on the subject of blasphemy. The Christians had to tell the Roman empire that the Roman gods were no gods. They had to tell the Roman empire that the genius of Rome itself, which the Roman system held to be the supreme deity, was not such; but that it was subordinate, and that there was a higher idea of God and of right than the Roman empire or the Roman law knew anything of. They did speak deliberately against the chief deity of Rome, and all the gods of Rome. They did it with the express purpose of destroying reverence for them and for the accepted religion. Rome put them to death. And I repeat, if the principle of the American statutes against blasphemy is correct, then Rome did right.

To make this clearer, I quote a passage from the Supreme Court of Pennsylvania in defense of this principle, in a decision upon this very subject, which says : "To prohibit the open, public, and explicit denial of the popular religion of a country, is a necessary measure to preserve the tranquillity of a government." That is precisely what the Roman empire did. Christianity did openly, publicly, and explicitly deny the popular religion of the country. It did it with intent to destroy men's reverence for the deities and the religion of that country. Rome prohibited it ; and upon the principle of the decision of the Supreme Court of Pennsylvania, which is the principle of American law on blasphemy, Rome did right, and Christianity was a blaspheming religion. The principle of this decision seems to be that those who represent the popular religion of a country have so little of the real virtue of the religion which they profess, that if anybody speaks against it, it is sure to rouse their combativeness to such a degree as to endanger the public tranquillity. Therefore, in order to keep civil those who represent the popular religion, the State must forbid anybody to deny that religion.

This decision of the Supreme Court of Pennsylvania is one of the grand precedents that have been followed in all the later decisions upon this subject in the younger States ; but this decision itself followed one by Chief Justice Kent of the Supreme Court of New York in 1811, in which he embodies the same principles. He defends the right of the State to punish such offenses against what he calls a Christian people, and not equally to punish like offenses against the religion of other people in this country, by the following argument : —

“Nor are we bound by any expressions in the Constitution, as some have strangely supposed, either not to punish at all, or to punish indiscriminately the like attacks upon the religion of Mohammed, or of the Grand Llama, and for this plain reason: that the case assumes that we are a Christian people, and the morality of the country is deeply engrafted upon Christianity, and not upon the doctrines or worship of those impostors.”

This is only to argue that if the morality of the country were engrafted upon the religion of Mohammed or the Grand Llama, and Christians were to speak against and deny that accepted religion, it would be proper that the State should punish those Christians for so doing. If that principle be correct, then a Mohammedan country has the right to prohibit the preaching of the gospel of Jesus Christ within its limits.

According to these decisions, Luther and the reformers of his day were blasphemers. The penalty was death, in many cases at the stake, yet under this principle the State did right to put them to death in whatever way the law prescribed; because they did certainly make an open, public, and explicit denial of the popular religion of every country in which they lived, and of all Europe; and if the words of Luther were used to-day in any Catholic country, they would be counted as blasphemous, as a willful and malicious reviling of the accepted religion. The reformers did hold up to ridicule and contempt the popular religion of all Europe. They did right, too; and when the State punished them, it was but carrying out the principles upheld by Chancellor Kent and the Supreme Court of Pennsylvania, and all the other States that have legislated on the subject of religion.

As I have already stated, it was upon this principle precisely that the Roman empire forbade the preaching

of the gospel of Christ. It only forbade an open, public, and explicit denial of the popular religion of the country, yet in forbidding that, it forbade the preaching of the gospel of Christ. But Christ sent forth his disciples to preach the gospel to every creature, and they did it in the face of the Roman law, and in opposition to the whole power of the Roman empire ; and everybody in all the world has an undeniable right to make an open, public, and explicit denial of the popular religion of this country, or any other, if he thinks that religion to be wrong.

The principle of these decisions and of the civil statutes against blasphemy, is essentially a pagan principle, and not a Christian principle. It is peculiarly appropriate, therefore, that Chief Justice Kent not only cited the precedents of the church-and-state principles of the colonies and of the British government, but appealed to the pagan governments of antiquity and the papal institutions of modern Europe, as the basis of his decision. It is true that all these nations have set themselves up as the special guardians of their deities, and have prohibited the denial of the popular religion ; and it is equally true that all these nations have resisted every step in enlightenment and progress that has ever been made in the march of time. Every step forward in religion and in enlightenment has of necessity been taken in the face of all the opposition which these States and empires could bring to bear. But the principles of American institutions are neither pagan nor papal. The principles of the American Constitution which forbids legislation on the subject of religion, are Christian principles. And it is strictly in order for Supreme Courts in making decisions in behalf of what they boast of as the Christian religion, to base their decision upon something else than the course of

the pagan governments of antiquity, and the papal institutions of modern Europe. Upon such a subject it would seem to be proper for them to refer to the teachings and the principles of the Author of Christianity, but singularly enough, it has never been done, and doubtless for the very good reason that it never can be done ; for the teachings of Jesus Christ are directly against it. His word forbids civil government to have anything to do with what pertains to God. And instead of teaching his disciples to prosecute, to fine, and to punish by civil law those who speak against them or their religion, he says, "Love your enemies, do good to them that hate you, pray for them that despitefully use you and persecute you ; that ye may be the children of your Father which is in heaven." How can men be brought to respect God or Jesus Christ by civil penalties upon their bodies and goods? How can they respect the religion of men who are ready to prosecute and imprison them? Every principle of the thing is contrary both to the spirit and the letter of Christianity. The religion of Jesus Christ properly exemplified in the daily lives of those who profess it, is the best argument and the strongest defense against blasphemy, both as defined by the Scriptures and by the civil statutes.

Laws, therefore, prohibiting "what a jury may call blasphemy," are pagan, and not Christian. The decisions of the Supreme Courts of New York and Pennsylvania upon this subject are pagan decisions, and not Christian ; they are based upon pagan precedents, not Christian. The deadly persecutions of all history, pagan, papal, and so-called Protestant, are justified in these decisions. Michael Servetus was burnt for "blasphemy." The only use that ever has been, or ever is, made of any such laws in any country, is to give some

religious bigots who profess the popular religion, an opportunity to vent their wrath upon persons who disagree with them. Any man who really possesses the religion of Christ will have enough of the grace of God to keep him from endangering the public tranquillity when his religion is spoken against.

Therefore, I say that we are opposed to all laws of civil government against blasphemy, not because blasphemy is not wrong, but because it is a wrong of that kind with which civil government has nothing to do; and in this we stand wholly upon Christian principle. We stand exactly where the early Christians stood; for, I say again, when Paul spoke in the Roman empire, he was blaspheming, according to the law, was held as a blasphemer and an atheist, and was put to death as such, under the very principle upon which the American laws of blasphemy are sustained.

Senator Blair.—The law was wrong, you say?

Mr. Jones.—Certainly the law was wrong. The Roman law was that no man should have particular gods of his own,—gods not recognized by the Roman law.

Senator Blair.—That law was not for the good of society?

Mr. Jones.—No, sir.

Senator Blair.—Certainly it was not. Then you have to repeal the law or obey it.

Mr. Jones.—It ought to be repealed.

Senator Blair.—During these eighteen hundred years we have contrived to repeal that law; but here comes an intelligent people who have evolved among themselves, as the result of a thousand or fifteen hundred years of history, among other things, the institution of the Christian Sabbath, by writing it in the

laws of every State in this country, so that the whole American people made up of communities or States, have enacted the principle of this law.

Mr. Jones.—The same principle is under the bill before the Committee. There is the same principle under it all. If you can legislate in regard to the Sabbath, you can legislate in regard to blasphemy; you can legislate in regard to idolatry, and every other offense against God, as did both the Puritan and the papal theocracy.

Senator Blair.—You deny the right of the majority, in other words, to make a law in conformity with which the whole shall practice in society?

Mr. Jones.—I deny the right of any civil government to make any law respecting anything that pertains to man's relationship to his God, under the first four of the ten commandments. I wish right here to show further that this is not only the principle of the word of Jesus Christ, but also of the American Constitution.

Before Christianity was preached in the world, the Roman empire had among its laws these statutes:—

“1. No man shall have for himself particular gods of his own; no man shall worship by himself any new or foreign gods, unless they are recognized by the public laws.

“2. Worship the gods in all respects according to the laws of your country, and compel all others to do the same. But hate and punish those who would introduce anything whatever alien to our customs in this particular.

“3. Whoever introduces new religions, the tendency and character of which are unknown, whereby the minds of men may be disturbed, shall, if belonging to the higher rank, be banished; if to the lower, punished with death.”

The Christians did have a particular God of their own, not recognized by the Roman law. They did introduce a new religion. The Roman empire enforced the law, and that is why the Christians were put to death. If things pertaining to God be a proper subject of legislation by civil government, then no Christian was ever persecuted, and there has never been persecution in this world. All the Roman empire did in killing Christians was to enforce the law. Then the question was with the Christians, at that time, and the question is with us, Is not the law wrong? and did not the Christians have the right to attack the law? That is what they did. When a Christian was brought before the magistrate, a dialogue followed something like this:—

Magistrate.—“Have you a particular God of your own,—a god not recognized by the Roman law?”

Christian.—“Yes.”

M.—“Did you not know that the law is against it?”

C.—“Yes.”

M.—“Have you not introduced a new religion?”

C.—“Yes.”

M.—“Did you not know that the law is against it?”

C.—“Yes.”

M.—“Did you not know that the penalty is death, for those of the lower ranks?”

C.—“Yes.”

M.—“You are of the lower ranks?”

C.—“Yes.”

M.—“You have introduced a new religion?”

C.—“Yes.”

M.—“You have a God of your own?”

C.—“Yes.”

M.—“What is the penalty?”

C.—“Death.”

That was all. The Romans enforced the law upon the Christians in the first days of Christianity; and there was no persecution in it, if the principle be recognized

that civil government has a right to legislate in religious things. The empire had this apparent advantage, too, that the law existed before Christianity was known in the world. Christianity appeared to Rome as nothing else than an uprising against the imperial power. Laws are made to be enforced ; and to enforce the law is all that the Roman empire ever did, whether up to the time of Constantine, or at any other time. In fact, all the papacy did in the Middle Ages was to have the emperors enforce the law. We stand to-day just where the Christians did at that time ; we come to the root of the whole matter, and deny the right of the civil government to legislate on anything that pertains to our duties to God under the first four commandments, and assert the Christian and American principle that every man has the right to worship God according to the dictates of his own conscience.

The principle that the Christians asserted was to render to Cæsar that which is Cæsar's, and to deny the right of Cæsar to demand anything that pertains to God. They gave their lives in support of that principle, against the law of the Roman empire, and against the very existence of the Roman empire. This principle was asserted and maintained until it forced the Roman empire, with all its power, to recognize the right of every man to have a particular god of his own, and to worship that god as he chose. The Roman empire did come in the days of Constantine and Licinius to that point. At the death of Galerius, it was decreed in the Roman law, by the emperors Constantine and Licinius in the Edict of Milan, that every man should be at liberty to have any god he pleased, and worship him as he pleased. But it was the Christian principle that forced the Roman empire to that point in the face of all its laws and institutions of ages.

Our national Constitution embodies the very principle announced by Jesus Christ, that the civil government shall have nothing to do with religion, or with what pertains to God ; but shall leave that to every man's conscience and his God. As long as he is a good citizen, the nation will protect him and leave him perfectly free to worship whom he pleases, when he pleases, as he pleases, or not to worship at all, if he pleases.

In Article VI. of the Constitution of the United States, this nation says that "no religious test shall ever be required as a qualification to any office or public trust under the United States." By an amendment making more certain the adoption of the principle, it declares in the first amendment to the Constitution, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." This first amendment was adopted in 1789, by the first Congress that ever met under the Constitution. In 1796 a treaty was made with Tripoli, in which it was declared (Article II.) that "the Government of the United States of America is not in any sense founded on the Christian religion." This treaty was framed by an ex-Congregationalist clergyman, and was signed by President Washington. It was not out of disrespect to religion or Christianity that these clauses were placed in the Constitution, and that this one was inserted in that treaty. On the contrary, it was entirely on account of their respect for religion, and the Christian religion in particular, as being beyond the province of civil government, pertaining solely to the conscience, and resting entirely between the individual and God. This fact is so well stated by Mr. Bancroft in his "History of the Constitution of the United States," that I will here insert it : —

“In the earliest States known to history, government and religion were one and indivisible. Each State had its special deity, and often these protectors, one after another, might be overthrown in battle, never to rise again. The Peloponnesian War grew out of a strife about an oracle. Rome, as it sometimes adopted into citizenship those whom it vanquished, introduced in like manner, and with good logic for that day, the worship of their gods. No one thought of vindicating religion for the conscience of the individual, till a voice in Judea, breaking day for the greatest epoch in the life of humanity, by establishing a pure, spiritual, and universal religion for all mankind, enjoined to render to Cæsar only that which is Cæsar’s. The rule was upheld during the infancy of the gospel for all men. No sooner was this religion adopted by the chief of the Roman empire, than it was shorn of its character of universality, and enthralled by an unholy connection with the unholy State ; and so it continued till the new nation, — the least defiled with the barren scoffings of the eighteenth century, the most general believer in Christianity of any people of that age, the chief heir of the Reformation in its purest forms, — when it came to establish a government for the United States, refused to treat faith as a matter to be regulated by a corporate body, or having a headship in a monarch or a State.

“Vindicating the right of individuality even in religion, and in religion above all, *the new nation dared to set the example of accepting in its relations to God the principle first divinely ordained of God in Judea.* It left the management of temporal things to the temporal power ; but the American Constitution, in harmony with the people of the several States, withheld from the Federal Government the power to invade the home of reason, the citadel of conscience, the sanctuary of the soul ; and not from indifference, but that the infinite Spirit of eternal truth might move in its freedom and purity and power.” — *Last chapter.*

At this point I am brought to the assertion of the second of the principles upon which we stand in our

opposition to Sunday laws, or any other form of religious legislation: that is, the principle of the Constitution of the United States; and upon this principle I maintain that this proposed Sunday law *is unconstitutional*.

The object of this Sunday bill is wholly religious. The last section shows the object of the entire bill; and that is, "to secure to the whole people rest, . . . and the religious observance of the Sabbath day." No one, therefore, need attempt to evade the force of objections against this bill by saying that it is not the religious, but the *civil*, observance of the day that is required; because it is plainly declared in the bill itself, that it is not only to secure rest to all the people, but that it is also to secure the *religious* observance of the Sabbath day. There is not a single reference in the bill to any such thing as the civil observance of the day. The word *civil* is not used in the bill. It is a religious bill wholly. The title of the bill declares that its object is to secure to the people the enjoyment of the Lord's day as a day of rest, "and to promote its observance as a day of *religious worship*." The first section defines the Lord's day; the second section refers to the day as one of worship and rest; the third section refers to it as a day of religious worship; the fourth section refers to its observance as that of religious worship; and the sixth section plainly declares, what is apparent throughout, that the object of the bill is "to secure to the whole people rest, . . . and the *religious* observance of the Sabbath day," on the first day of the week.

It is the religious observance of the day that its promoters, from one end of the land to the other, have in view. In the convention, now in session in this city,

working in behalf of this bill, only yesterday Dr. Crafts said : —

“ Taking religion out of the day, takes the rest out.”

In the “ Boston Monday Lectures,” 1887, Joseph Cook, lecturing on the subject of Sunday laws, said : —

“ The experience of centuries shows, however, that you will in vain endeavor to preserve Sunday as a day of rest, unless you preserve it as a day of worship. Unless Sabbath observance be *founded upon religious reasons*, you will not long maintain it at a high standard on the basis of economic and physiological and political considerations only.”

And in the Illinois State Sunday convention held in Elgin, Nov. 8. 1887, Dr. W. W. Everts declared Sunday to be “ the test of all religion.”

Sunday is a religious institution wholly ; Sunday legislation, wherever found, is religious legislation solely ; and this bill does not in its terms pretend to be anything else than religious. Being therefore as it is, religious legislation, it is clearly unconstitutional. In proof of this, I submit the following considerations : —

All the powers of Congress are delegated powers. It has no other power ; it cannot exercise any other. Article X. of Amendments to the Constitution expressly declares that —

“ The powers not delegated to the United States by the Constitution, or prohibited by it to the States, are reserved to the States respectively, or to the people.”

In all the powers thus delegated to Congress, there is no hint of any power to legislate upon any religious question, or in regard to the observance of any religious institution or rite. Therefore, this Sunday bill, being a religious bill, is unconstitutional ; and any legislation with regard to it will be unconstitutional. Sunday be-

ing a religious institution, any legislation by Congress in regard to its observance, will be unconstitutional as long as the United States Constitution shall remain as it now is.

Nor is this all. The nation has not been left in doubt as to whether the failure to delegate this power was or was not intentional. The first amendment to the Constitution, in declaring that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof," shows that the failure to delegate such power was intentional, and makes the intention emphatic by absolutely prohibiting Congress from exercising any power with regard to religion. It is impossible to frame a law on the subject of religion that will not prohibit the free exercise of religion. Therefore the first amendment to the Constitution absolutely prohibits Congress from ever making any law with regard to any religious subject, or the observance of any religious rite or institution.

More than this, the National Reform Association knows, and has been contending for twenty-five years, that for Congress to make any Sunday laws would be unconstitutional. Yet the National Reform Association is one of the most prominent agencies in urging forward this bill; and the Secretary of that Association stood at this table to-day to plead for its passage. And this only shows that they are willing knowingly to resort to unconstitutional means to secure their coveted power, and to accomplish their purposes. As for Dr. Crafts and his fellow-workers, whether or not they know it to be unconstitutional, we do not know. In the announcements of the national Sunday-law convention now (Dec. 11-13, 1888) being held in this city, it was stated that the church in which the convention was to meet would

be festooned with the names of six millions of petitioners; but at the beginning of the first meeting it was stated that there were *fourteen* millions of them. A question was sent up asking how the number could have grown so much larger so suddenly. Mrs. Bateham was recalled to the platform to answer the question, and when she answered it, the cause of such a sudden and enormous growth was explained by the fact that Cardinal Gibbons had written a letter indorsing the bill, and solely upon the strength of his name, seven million two hundred thousand Catholics were counted as *petitioners*.

This was not a complete answer to the question, because the Cardinal's letter does not authorize any such use of it as they have made, at least so much of it as was made public does not. The whole of the letter was not made public there, because, Dr. Crafts said, it was for the Senate Committee. It was laid on the table here to-day. But so much of it as was read merely referred to the action of the Baltimore Council in commanding a stricter observance of Sunday, and said:—

“I am most happy to add my name to those of the millions of others who are laudably contending against the violation of the Christian Sabbath by unnecessary labor, and who are endeavoring to promote its decent and proper observance by judicious legislation.”

This was all. He said, “I am happy to add *my name*,” etc. He did not say that he added, or that he wished to add, seven million two hundred thousand others with his name, or in his name; yet this was done. But it was not so much to be wondered at, because the same principle had been acted upon before throughout the country, and when five hundred petitioners could be made out of *one* hundred, and two hundred

and forty *thousand* out of two hundred and forty, it was perfectly easy and entirely consistent to make seven million two hundred thousand and one out of *one*.

This thing was perfectly consistent also with the principle in another point. The petition reads : "We, the undersigned, *adult* residents of the United States, *twenty-one years of age or more*, hereby petition," etc. In counting these seven million two hundred thousand petitioners in behalf of the Sunday law, they thereby certified that all these were Catholics "twenty-one years of age or more." But there was not a man in that convention, and there is not a woman in the Woman's Christian Temperance Union, who does not know that there are not that many Catholics in the United States "twenty-one years of age or more." They virtually certified that all the Catholics in the United States are "twenty-one years of age or more," for they distinctly announced that "all the Roman Catholics" were petitioning for the Sunday law. But as they had virtually certified the same thing of the Protestant churches throughout the country, why should they not go on and swing in "all the Roman Catholics" in the same way? They could do the one just as honestly as they could do the other. When men and women professing themselves to be Protestant Christians will do such things as that to carry the Catholic Church with them, it is not to be wondered at if they should be willing to resort to unconstitutional means to make their religious zeal effective in national law.

Senator Blair. — Then you assume that this bill and all Sunday laws concern only the relation of man to God, and not the relation of men to each other?

Mr. Jones. — Yes, sir, that is the principle upon which we stand.

Senator Blair.—Right there I find fault with your original proposition. You have got to establish, before you can defeat the ground of Sunday laws, that Sunday laws are not for the good of Cæsar ; that is, not for the good of society.

Mr. Jones.—I have not had time to prove that yet. I will prove fully that Sunday laws are not for the good of anybody.

Senator Blair.—Come to the point as soon as you can. That is the point in this case, as between you and the law proposed to be enacted.

Mr. Jones.—Very good. For the State to compel men to do no work is to enforce idleness. Idleness is the root of unlimited evil. It is a true proverb that we learned in our boyhood, "Satan always finds something for idle hands to do." In this world, to compel men to be idle is to force them into a line of influences and temptations which in the very nature of things can end only in evil. It is well known, and it is one of the principal grounds of the complaints of those who are working for Sunday laws, that Sunday is, of all the week, the day of the most wickedness ; that the record of crime and violence on Sunday exceeds that of any other day of the week, especially in large cities.

Dr. Crafts refers constantly to London as an exemplary city in the matter of enforced Sunday laws, but the fact was brought out last spring by a member of this Committee—Senator Payne—that the statement had lately been "made on authority, that London on Sunday is the most immoral and dissipated city in the world." Now why is this? They argue that it is because the saloons are open on Sunday. But the saloons are open every other day of the week. Then the saloons being open no more on Sunday than on any

other day, why is it that there is so much more violence done on Sunday than on other days of the week?—It is because more men are idle on Sunday than on any other day of the week. Upon this point I quote an extract from the *Cincinnati Commercial Gazette* of March 10, 1888.

“They declare Sunday the moral ruin of the people. They prove it by alleged statistics of criminal prosecutions to show that more crimes of violence are committed on Sunday than on all other days of the week. Why is this? Because the saloons are open?—They are open on other days. This reduces them to the sole reason that it is because it is a day of idleness.

“Their argument is absolutely destructive to the beneficence of the custom of a rest day. They continually affirm that a Sabbath day is the very foundation of religion, morals, and society, and they as incessantly declare that the custom of Sunday cessation from work in the cities had made it a day of moral ruin. What is their recourse from the destruction which they charge upon the day of idleness?—*To make statutes more stringent to enforce idleness.* Arguing that idleness on that day leads mankind to moral ruin, they call for a more rigid enforcement of idleness, to lead mankind to the ways of salvation.

“Surely there is need to revise their basis in season before they can proceed rationally in legislation. Selling beer is no more a sin on Sunday than on other days. The reason why more crimes of violence are done on Sunday than on other days—if that is a fact—is not that the saloons are open, but that the men are idle. The good of a day of rest for the toilers has to be taken with the drawback of this unavoidable evil from idleness and indulgences of appetites. The *cause* is the *cessation of vocations.*”

This argument is entirely sound. We submit to the consideration of any candid mind that it would be far better to allow men to follow their honest occupations

on Sunday as they do on other days of the week, than to compel them to be idle, and thus forcibly throw them into the way of all the temptations and evil that beset men in this world. No State, therefore, can ever afford for its own good to enact laws making idleness compulsory, as Sunday laws do.

More than this, to prohibit men from following their honest occupations at any time, under penalties of fine or imprisonment, or perhaps both, is for the State to relegate honest occupations to the realm of crime, and put a premium upon idleness and recklessness. It is well known that in many localities if a man will only be idle on Sunday, he can run into all sorts of dissipation and wickedness to any extent, except that of down-right violence, without any fear of prosecution or penalty of any kind. But if any quiet, industrious citizen chooses to engage in his honest occupation, — going quietly about his own business on his own premises on Sunday, — he is subjected to prosecution, to a penalty of a heavy fine, and perhaps imprisonment. This is nothing else than to put a premium upon wickedness. No State can afford to make crimes of honest occupations. No State can afford to put such a premium upon idleness and all its attendant wickedness.

All these complaints of evil and violence and wickedness on Sunday, so enlarged upon by the people who are working for Sunday laws, is an open confession that wickedness is the effect of enforced idleness, and this in itself is the strongest argument that can be offered against the very things for which they plead. The States of the Union have all these years been sowing the wind in this very thing, and now they are reaping the whirlwind. And, worse than all, they propose to

cure the evils of all this enforced idleness by more stringently enforcing more idleness throughout the whole nation, and by the national power.

It may be answered that this reflects upon the wisdom of God in appointing a day of rest ; but it does not. God appointed the Sabbath for a purpose ; and that purpose is that men should remember him in his works of creation, and worship him as Creator.

The intention of the commandment enjoining the observance of the Sabbath day, is the honor of God, and his worship as Creator. This worship and the religious sanctions which God has associated with the Sabbath, are considerations which will ever prevent the day from becoming a day of idleness to those who keep the Sabbath in obedience to him ; and the worship of God and the religious sanctions which he has put upon the Sabbath, are the only things that ever can prevent the Sabbath from becoming a day of idleness. Those who advocate this Sunday bill well know this. This whole principle is embodied in that statement Dr. Crafts made to the Knights of Labor, that "if you take *religion* out of the day, you take the *rest* out." The same principle is also apparent in the words of Joseph Cook, before referred to, that you will in vain endeavor to secure the enforcement of a day of rest unless you enforce it as *a day of worship*; and unless it be founded on *religious* reasons, it cannot be long maintained.

Thus these men themselves confess the point which I here make : that it is only the religious sanctions and worship that can ever keep a day of rest from being a day of idleness, and of consequent wickedness. But *it is only God* who can furnish those sanctions ; *the State never can*. Therefore, the next step in the

proceeding on the part of those who are calling for this law is to have the State attempt to supply the religious sanctions which belong with the day of rest, and which only can keep it from being a day of idleness and a day of evil. But they know that the State has none of those religious sanctions; and they know that these will have to be supplied to the State by the church, and then the church will call upon the State, by its power, to force them upon the citizen.

This is precisely what is proposed. Rev. Sam Small, in a sermon in Kansas City last winter, expressed the views of many more than himself, when he said : —

“I want to see the day come when the church shall be the arbiter of all legislation, State, national, and municipal; when the great churches of the country can come together harmoniously, and issue their edict, and the legislative powers will respect it, and enact it into laws.”

But any attempt to enforce religious observances only enforces hypocrisy and multiplies sin, because love for God is essential to every act of religious duty. For a man to tender obedience or homage to God when he has no love for God in his heart, only dishonors God, and does violence to his own nature. For anybody to obey God, or perform religious observances from interested motives, is sin; and for the State to exert its power in compelling men to act religiously, and pretend to honor God when they have in the heart no love for God, is only to force them into hypocrisy, and to compel them to commit sin, which, increased and multiplied by the exertion of national power, can end only in ruin, and that speedily.

For as Mr. Buckle has most forcibly expressed it : —

“In this way, men being constrained to mask their thoughts, there arises a habit of securing safety by falsehood, and of purchasing impunity with deceit. In this way, fraud becomes a necessity of life ; insincerity is made a daily custom ; the whole tone of public feeling is vitiated ; and the gross amount of vice and of error fearfully increased.”

Consequently, it is only at its own peril that the State can ever enforce the observance of a day of rest.

More than this, for the State to allow itself to be dictated to by the church as is here proposed by Mr. Small, is to render the church superior to the civil power, which can end in nothing but a religious despotism, which is the worst of all despotisms. Thus by every line of reasoning that can spring from the subject, it is demonstrated that for the State to fix a day of compulsory rest can only end in evil. Therefore, my proposition is proved, that Sunday laws are not for the good of anybody.

Further : as it is only the religious sanctions which surround a day of rest, that can prevent it from being a day of idleness, and consequently of evil ; and as God only can supply these sanctions, it follows that to God only, can Sabbath observance be rendered. He only can command it ; he only can secure it ; and being a duty which can be rendered only to God, we are brought again directly to the command of Jesus Christ, to render unto God, not to Cæsar, that which is God's, which clearly forbids the State to have anything to do with Sabbath observance.

This whole line of argument is fully sustained by the Sabbath commandment itself. That commandment says : “Remember the Sabbath day, to keep it holy. Six days shalt thou labor, and do all thy work : but the seventh day is the Sabbath of the Lord thy God : in it

thou shalt not do any work, thou, nor thy son, nor thy daughter, thy man-servant, nor thy maid-servant, nor thy cattle, nor thy stranger that is within thy gates : for in six days the Lord made heaven and earth, the sea, and all that in them is, and rested the seventh day : wherefore the Lord blessed the Sabbath day, and hallowed it."

Here are the reasons : first, he rested on the seventh day ; second, he blessed it and made it holy. That you may become tired is not given as a reason for doing no work on the seventh day. God does not say that on the seventh day you shall do no work, because if you should, you would overdo or break down your physical system. Nothing of the kind. Man's physical wants are not referred to in the commandment. It says, Work six days, because *the Lord* worked six days ; rest on the seventh day, because *the Lord* rested on the seventh day ; keep that day holy, because the Lord blessed it and made it holy. It is the Lord who is to be held in view. It is the Lord who is to be exalted. Therefore the fourth commandment and its obligations have solely to do with man's relationship to God. It is not man's *physical*, but his *spiritual*, needs that are held in view in the Sabbath commandment. It is intended to be a day in which to worship God,—a day of holy remembrance of him, and of meditation upon his works. The day is to be kept *holy*. If it is not kept holy, it is not kept at all. When the State undertakes to demand the observance of the Sabbath, or Lord's day, it demands of men that which does not belong to it, but which belongs only to God. When the State undertakes to secure the observance of the Sabbath, it undertakes that which, to it, is an impossible task, because holiness is not an attribute of civil government, nor has it either the power or the creden-

tials to promote holiness ; and as has been already demonstrated, all that it ever can do in any such effort is to enforce idleness and put a premium upon recklessness, which, for its own welfare, the State can never afford to do. If the State undertakes to supply, from whatever source, the religious sanctions which alone can keep the day from being one of idleness, generating evil, it only enforces hypocrisy, and increases sin.

Therefore I repeat, that by every logical consideration of the subject, I have sustained my proposition that Sunday laws are not for the good of anybody or anything in this world.

Senator Blair.—Do you understand that this bill undertakes to make anybody worship God ?

Mr. Jones.—Yes, sir, I affirm that it does ; and I will prove it by statements made by those who stood here to-day. But I have some other points to make first ; and here I propose to introduce my historical argument. I want you all to see that in this way the papacy was made in the fourth century. I shall read all that I do read, perhaps, on this point, from Neander's Church History, vol. 2, Prof. Torrey's edition, Boston, 1852. I can only refer to it by the page. As I have related, the Roman empire was forced by the principles of Christ, to recognize the right of every man to worship as he chose. This right was recognized in the Edict of Milan, A. D. 312. But liberty of conscience trembled in the balance but a moment, and then the bishopric, with that ambitious spirit that developed the papacy, took up the strain, and carried forward that line of work which ended in the imperious despotism of the Middle Ages. I want you to see just how that was done, and you will then have no difficulty in seeing the tendency of the present movement.

Neander says : —

“There had in fact arisen in the church a false theocratical theory, originating not in the essence of the gospel, but in the confusion of the religious constitutions of the Old and New Testaments, which . . . brought along with it an unchristian opposition of the spiritual to the secular power, and which might easily result in the formation of a sacerdotal State, subordinating the secular to itself in a false and outward way.” — *p. 132.*

A theocratical theory of government tending to subordinate the secular to itself, was the scheme. In other words, the church aimed to make the ecclesiastical power superior to the civil power. These theocratical bishops made themselves and their power a necessity to Constantine, who, in order to make sure of their support, became a political convert to the form of Christianity, and made it the recognized religion of the empire ; for says Neander further : —

“This theocratical theory was already the prevailing one in the time of Constantine ; and . . . the bishops voluntarily made themselves dependent on him by their disputes, and by their determination to make use of the power of the State for the furtherance of their aims.” — *Idem.*

Out of that theocratical theory of government came the papacy, which did subordinate the civil to the ecclesiastical power, and that same spirit is to be guarded against to-day in the United States as much as in any other country.

I want you to see that there is a theocratical theory underlying this whole scheme. Mrs. Bateham has said that the Woman's Christian Temperance Union started this movement a short time ago, and that they had worked it up. What is their aim in civil

government? I quote from the monthly reading of the Woman's Christian Temperance Union of September, 1886,—a monthly reading for all the local Unions throughout the country—the following:—

“A true theocracy is yet to come, and the enthronement of Christ in law and law-makers; hence I pray devoutly, as a Christian patriot, for the ballot in the hands of women, and rejoice that the National Woman's Christian Temperance Union has so long championed this cause.”

A theocratical theory, you see, is behind this movement, and is again coming in to interfere in civil things, to establish a theocracy, and to subordinate the civil power at last, to the ecclesiastical.

Senator Blair.—Do you think that the question of giving the ballot to women is a religious question?

Mr. Jones.—No. I only read this for the purpose of giving the proof that there is a theocratical theory underlying this, as there was that in the fourth century, so as to show the parallel.

Senator Blair.—But the parallel seems to imply that the extension of the suffrage to woman is by divine appointment, and is the introduction of a theocratic form of government?

Mr. Jones.—Yes, they want the ballot so as to make a theocracy successful.

Senator Blair.—Therefore you would be against woman's suffrage?

Mr. Jones.—I would be against woman's suffrage, or any other kind of suffrage, to establish a theocracy.

Senator Blair.—But that is not the question. It is possible these women have misstated their own idea there.

Mr. Jones.—No, because I have other proofs. Let me read them.

Senator Palmer. — Do you suppose they intended there a practical theocracy?

Mr. Jones. — I do, sir; but let me read further, and you will get their own words.

Senator Blair. — If these women are trying to overthrow the institutions of the country, and are about to establish a sacerdotal State, we ought to know it.

Mr. Jones. — That is true, and that is why I am speaking here; we want the nation to know it.

Senator Blair. — These women need looking after, I admit.

Mr. Jones. — They do in that respect, and there are many men concerned in the same business.

Senator Blair. — Otherwise it would not be dangerous.

Mr. Jones. — It would be dangerous anyway. A theocratical theory of government is dangerous anywhere. It is antichristian, as well as contrary to right and the principles of justice.

Senator Blair. — Do you suppose that the government of heaven is a theocracy?

Mr. Jones. — Yes, sir; but a civil government — a government of earth — is not.

Senator Blair. — Then why is it dangerous?

Mr. Jones. — Governments of earth are not dangerous when properly controlled.

Senator Blair. — They only say that a true theocracy is yet to come. A millennium is supposed to be coming; perhaps they have reference to a millennium that we have not yet got, so that they will wait some years before they get it.

Mr. Jones. — But I am going to read what kind of laws they propose to make to bring in the millennium.

Senator Blair. — So far as you have read, you have not touched the question; for they say a true theocracy

is yet to come, and it may be they are looking to the coming down of the New Jerusalem, for the time of the new theocracy.

Mr. Jones.—No, because no true theocracy can ever come through civil laws, or through politics, or through the ballot.

Senator Blair.—That is not sure at all.

Mr. Jones.—It is by the Scriptures.

Senator Blair.—I do not know; I have read the Bible several times. But go on.

Mr. Jones.—The government of Israel was a true theocracy. That was really a government of God. At the burning bush, God commissioned Moses to lead his people out of Egypt. By signs and wonders and mighty miracles multiplied, God delivered Israel from Egypt, and led them through the wilderness, and finally into the promised land. There he ruled them by judges "until Samuel the prophet," to whom, when he was a child, God spoke, and by whom he made known his will. In the days of Samuel, the people asked that they might have a king. This was allowed, and God chose Saul, and Samuel anointed him king of Israel. Saul failed to do the will of God, and as he rejected the word of the Lord, the Lord rejected him from being king, and sent Samuel to anoint David king of Israel; and David's throne God established forevermore. When Solomon succeeded to the kingdom in the place of David his father, the record is: "Then Solomon sat on the *throne of the Lord* as king instead of David his father." 1 Chron. 29:23. David's throne was the throne of the Lord, and Solomon sat on the throne of the Lord as king over the earthly kingdom of God. The succession to the throne descended in David's line to Zedekiah, who was made subject to the king of Babylon, and who entered into a solemn covenant before God that he

would loyally render allegiance to the king of Babylon. But Zedekiah broke his covenant ; and then God said to him : —

“Thou profane, wicked prince of Israel, whose day is come, when iniquity shall have an end, thus saith the Lord God ; Remove the diadem, and take off the crown : this shall not be the same : exalt him that is low, and abase him that is high. I will overturn, overturn, overturn it, and it shall be no more, until he come whose right it is ; and I will give it him.” Eze. 21 : 25-27 ; see chap. 17 : 1-21.

The kingdom was then subject to Babylon. When Babylon fell, and Medo-Persia succeeded, it was overturned the first time. When Medo-Persia fell, and was succeeded by Grecia, it was overturned the second time. When the Greek empire gave way to Rome, it was overturned the third time. And then says the word, “It shall be no more, until he come whose right it is ; and I will give it him.” Who is he whose right it is ? — “Thou . . . shalt call his name Jesus. He shall be great, and shall be called the Son of the Highest ; and the Lord God shall give unto him the throne of his father David ; and he shall reign over the house of Jacob forever ; and of his kingdom there shall be no end.” Luke 1 : 31-33. And while he was here as “that prophet,” a man of sorrows and acquainted with grief, the night in which he was betrayed he himself declared, “My kingdom is not of this world.” Thus the throne of the Lord has been removed from this world, and will “be no more, until he come whose right it is,” and then it will be given him. And *that time* is the end of this world, and the beginning of “the world to come.” Therefore while this world stands, a true theocracy can never be in it again. Consequently, from

the death of Christ till the end of this world, every theory of an earthly theocracy is a false theory ; every pretension to it is a false pretension ; and wherever any such theory is proposed or advocated, whether in Rome in the fourth century, or here in the nineteenth century, it bears in it all that the papacy is or that it ever pretended to be, — it puts a man in the place of God.

Now I will read another statement as to the purpose of the Woman's Christian Temperance Union. It is from the annual address of the President of the National Union, at the Nashville convention, 1887. It is as follows :—

“The Woman's Christian Temperance Union, local, State, national, and world-wide, has one vital, organic thought, one all-absorbing purpose, one undying enthusiasm, and that is that Christ shall be *this world's king*; —”

Senator Blair. — “Shall be.”

Mr. Jones. — “Shall be this world's king.”

Senator Blair. — But you are a clergyman, and you read the Bible to us.

Mr. Jones. — I am going to read a passage presently right on this point.

Senator Blair. — Is it not in the same Bible that the time when Christ is to be the king, is the present ?

Mr. Jones. — I am going to read a passage from the Bible in connection with this subject. Allow me to finish this extract : —

“The Woman's Christian Temperance Union, local, State, national, and world-wide, has one vital, organic thought, one all-absorbing purpose, one undying enthusiasm, and that is that Christ shall be *this world's king* ; — yea, verily, THIS WORLD'S KING in its realm of cause and effect, — king of its courts, its camps, its

commerce, — king of its colleges and cloisters, — king of its customs and constitutions. . . . The kingdom of Christ must enter the realm of law through the gate-way of politics."

That emphasizes "*this world's king*." Jesus Christ himself said, "My kingdom is not of this world." Then assuredly the Woman's Christian Temperance Union stands against the words of Jesus Christ, in saying that he shall be this world's king ; and that that kingdom is to enter the realm of the law through the gate-way of politics. Jesus Christ has his entrance through the gate-way of the gospel, and not through politics.

Nor did this purpose end with the Nashville National Woman's Christian Temperance Union convention. The proposition was repeated by the New York national convention last summer, in the following resolution : —

"*Resolved*, That Christ and his gospel, as universal king and code, should be sovereign in our Government and political affairs."

Well, let us apply the resolution. Suppose the gospel were adopted as the code of this Government. It is the duty of every court to act in accordance with the code. There is a statute in that code which says, —

"If thy brother trespass against thee, rebuke him ; and if he repent, forgive him. And if he trespass against thee seven times in a day, and seven times in a day turn again to thee, saying, I repent ; thou shalt forgive him."

Suppose, then, a man steals a horse. He is arrested, tried, and found guilty. He says, "I repent." "Thou shalt forgive him," says the code, and the Government must conform to the code. He is released, and repeats the act ; is again arrested and found guilty. He says, "I repent." "Thou shalt forgive him," says the code.

And if he repeats the offense seven times in a day, and seven times in a day turns to the court, saying, "I repent," the Government must forgive him, for so says that which the Woman's Christian Temperance Union has resolved should be the governmental code.

Any such system as that would destroy civil government in twenty-four hours. This is not saying anything against the Bible, nor against its principles. It is only illustrating the absurd perversion of its principles by these people who want to establish a system of religious legislation here. God's government is moral, and he has made provision for maintaining his government with the forgiveness of transgression. But he has made no such provision for civil government. No such provision can be made, and civil government be maintained. The Bible reveals God's method of saving those who sin against his moral government; civil government is man's method of preserving order, and has nothing to do with sin, nor the salvation of sinners. If civil government arrests a thief or a murderer and finds him guilty, the penalty must be executed, though the Lord does forgive him.

The theocratical theory referred to seems to pervade the whole body, for the eighth district of the Woman's Christian Temperance Union, at Augusta, Wis., Oct. 2-4, 1888, representing fifteen counties, passed this resolution:—

"Whereas, God would have all men honor the Son, even as they honor the Father; and,—

"Whereas, The civil law which Christ gave from Sinai is the only perfect law, and the only law that will secure the rights of all classes; therefore,—

"Resolved, That civil government should recognize Christ as the moral Governor, and his law as the standard of legislation."

The law which Christ gave from Sinai is not a civil law ; it is the moral law. But if that be a civil law, and this a civil government, what in the world does a civil government want with a *moral* Governor ? These excellent women should be informed that civil government is based upon civil law, and has civil governors only. Moral government is founded in moral law, and has a moral Governor only. Any governmental theory that confounds these is a theocratical theory, which is precisely the governmental theory of the Woman's Christian Temperance Union, as is demonstrated by these proofs. And any theocratical theory of government since Christ died, is the theory of the papacy.

These extracts prove that the purpose of the Woman's Christian Temperance Union is the establishment of "a practical theocracy." Please do not misunderstand me here. There are none who have more respect or more good wishes for the Woman's Christian Temperance Union, in the line of its legitimate work, than have we. We are heartily in favor of union, of temperance union, of Christian temperance union, and of woman's Christian temperance union ; but we are *not* in favor of any kind of political Christian temperance union, nor of theocratical temperance union. We sincerely wish that the Woman's Christian Temperance Union would stick to its text, and work for Christian temperance by Christian means ; and not for Christian temperance by political means, nor for political temperance by theocratical means. I believe in Christian temperance. Not only do I believe in it, but I practice it. I practice Christian temperance more strictly than the Woman's Christian Temperance Union even preaches it. But believing in it as thoroughly as I do, and endeavoring to practice it as strictly as I believe in it, I would never

lift my hand nor open my lips in any effort to *compel* men to practice the Christian temperance in which I believe and which I practice. Christianity persuades men, instead of trying to compel them. By the purity and love of Christ, Christianity draws men instead of trying to drive them. It is not by the power of civil government, but by the power of the Holy Spirit, that Christianity secures the obedience of men and the practice of Christian temperance.

The establishment of a theocracy is the aim of the prime movers in this Sunday-law movement, as it was also the aim of the church leaders of the fourth century. And what came of that movement at that time? I read again : —

“This theocratical theory was already the prevailing one in the time of Constantine ; and . . . the bishops voluntarily made themselves dependent on him by their disputes, *and by their determination to make use of the power of the State for the furtherance of their aims.*” — *Neander, p. 132.*

This being their theory, which resulted in the determination “to make use of the power of the State for the furtherance of their aims,” the question arises, What means did they employ to secure control of this power? The answer is, They did it *by means of Sunday laws.*

The first and greatest aim of the political church managers of that time was the exaltation of themselves ; and second only to that was the exaltation of Sunday. These two things had been the principal aim of the bishops of Rome for more than a hundred years, when Constantine gave them a chance to make their schemes effectual by the power of the State. The arrogant pretensions of the bishop of Rome to secure power over the whole church, was first asserted in be-

half of Sunday by Victor, who was bishop of Rome from A. D. 193 to 202.

“He wrote an imperious letter to the Asiatic prelates commanding them to imitate the example of the Western Christians with respect to the time of celebrating the festival of Easter [that is, commanding them to celebrate it on Sunday]. The Asiatics answered this lordly requisition . . . with great spirit and resolution, that they would by no means depart in this manner from the custom handed down to them by their ancestors. Upon this the thunder of excommunication began to roar. Victor, exasperated by this resolute answer of the Asiatic bishops, broke communion with them, pronounced them unworthy of the name of his brethren, and excluded them from all fellowship with the church of Rome.” — *Mosheim, chap. 4, par. 11.*

The one means by which these church managers secured from Constantine the use of the power of the State, was the famous edict prohibiting certain kinds of work on “the venerable day of the sun.” That edict runs thus:—

“Let all the judges and towns-people and the occupation of all trades rest on the venerable day of the sun; but let those who are situated in the country, freely and at full liberty attend to the business of agriculture, because it often happens that no other day is so fit for sowing corn and planting vines, lest the critical moment being let slip, men should lose the commodities granted by Heaven.”

This edict was issued March 7, A. D. 321. Only judges and towns-people and mechanics were to rest on Sunday; people in the country were at full liberty to work. But this did not satisfy the political managers of the churches for any great length of time. “The object of the first Sunday law,” says Sozomen, “was that the day might be devoted with less interrup-

tion to the purposes of devotion." And as the government was now a theocracy, it was only consistent that all should be required to be religious. Consequently, an additional Sunday law was secured, which commanded *all* people to do no work on Sunday.

"By a law of the year 386, those older changes effected by the Emperor Constantine were more rigorously enforced, and, in general, civil transactions of every kind on Sunday were strictly forbidden. Whoever transgressed was to be considered in fact as guilty of sacrilege." — *Neander*, p. 300.

Then as the people were not allowed to do any manner of work, they would play, and as the natural consequence, the circuses and the theaters throughout the empire were crowded every Sunday. But the object of the law, from the first one that was issued, was that the day might be used for the purposes of devotion, and that the people might go to church. Consequently, that this object might be met, there was another step to take, and it was taken. At a church convention held at Carthage in 401, the bishops passed a resolution to send up a petition to the emperor, praying —

"That the public shows might be transferred from the Christian Sunday, and from feast-days, to some other days of the week." — *Idem*.

History does not say whether or not this petition represented the names of fourteen million petitioners, the greater part of whom never signed it at all. History is also silent as to whether the petition was indorsed by any one man who could be counted for seven million two hundred thousand men. But history is *not* silent as to the reason why it was necessary to send up the petition. The petitioners themselves gave the reason, and it was this : —

“The people congregate more to the circus than to the church.”—*Idem*, note 5.

In the circuses and the theaters large numbers of men were employed, among whom many were church-members. But rather than to give up their jobs, they would work on Sunday. The bishops complained that these were compelled to work: they pronounced it persecution, and asked for a law to protect those persons from such “persecution.” The church had become filled with a mass of people, unconverted, who cared vastly more for worldly interests and pleasures than they did for religion. And as the government was now a government of God, it was considered proper that the civil power should be used to cause all to show respect for God, whether or not they belonged to a church, or whether they had any respect for God.

The people, not being allowed to work, crowded the circus and the theater. They had no wish to be devoted; and as they were forced to be idle, a flood of dissipation was the inevitable consequence. Neander says of it:—

“Owing to the prevailing passion at that time, especially in the large cities, to run after the various public shows, it so happened that when these spectacles fell on the same days which had been consecrated by the church to some religious festival, they proved a great hinderance to the devotion of Christians, though chiefly, it must be allowed, to those whose Christianity was the least an affair of the life and of the heart.”—*Idem*.

And further:—

“Church teachers . . . were in truth often forced to complain that in such competitions the theater was vastly more frequented than the church.”—*Idem*.

And the church could not then stand competition; she wanted a monopoly. She got it, at last.

This petition of the Carthage Convention could not be granted at once, but in the year 425, the desired law was secured; and to this also there was attached the reason that was given for the first Sunday law that ever was made; namely, —

“In order that the devotion of the faithful might be free from all disturbance.” — *Idem*, p. 301.

It must constantly be borne in mind, however, that the only way in which “the devotion of the faithful” was “disturbed” by these things, was that when the circus or the theater was open at the same time that the church was open, the “faithful” would go to the circus or the theater instead of to church, and *therefore* their “devotion” was “disturbed.” And of course the only way in which the “devotion” of such “faithful” ones could be freed from all disturbance, was to close the circuses and the theaters at church time. Thus, and by this means, every reason for not being devoted was taken away from all the people. Then in the very next sentence Neander says: —

“In this way the church received help from the State for the furtherance of her ends.”

This statement is correct. Constantine did many things to favor the bishops. He gave them money and political preference. He made their decisions in disputed cases as final as the decision of Jesus Christ. But in nothing that he did for them did he give them power over those who did not belong to the church, to compel them to act as though they did, except in that one thing of the Sunday law. Their decisions, which he decreed to be final, were binding only on those who voluntarily chose that tribunal, and affected none others. Before this time, if any who had repaired to the tribunal of the

bishops were dissatisfied with the decision, they could appeal to the civil magistrate. This edict cut off that source of appeal, yet affected none but those who voluntarily chose the arbitration of the bishops. But in the Sunday law, power was given to the church to compel those who did not belong to the church, and who were not subject to the jurisdiction of the church, to obey the commands of the church. In the Sunday law there was given to the church control of the civil power, that by it she could compel those who did not belong to the church to act as if they did. The history of Constantine's time may be searched through and through, and it will be found that in nothing did he give to the church any such power, except in this one thing—the Sunday law. Neander's statement is literally correct, that it was “in this way the church received help from the State for the furtherance of her ends.”

The work, however, was not done yet. True, the bishops had secured the power of the State to take away from the people all excuse for not being religious; but from the beginning of the whole scheme, the people had no real wish to be religious. They had none of the spirit of devotion in their hearts; and although the State had forbidden them to work, and had shut the Sunday circuses and theaters, still the people would not be religious. The next step to be taken, therefore, in the logic of the situation, was to *compel* them; and the theocratical bishops were equal to the occasion. They were ready with a theory that exactly met the demands of the case; and the great Catholic Church Father and Catholic saint, Augustine, was the father of this Catholic saintly theory. He wrote:—

“It is indeed better that men should be brought to serve God by instruction than by fear of punishment, or

by pain. But because the former means are better, the latter must not therefore be neglected. . . . Many must often be brought back to their Lord, like wicked servants, by the rod of temporal suffering, before they attain to the highest grade of religious development." — *Schaff's Church History*, vol. 2, sec. 27.

Of this theory Neander remarks : —

"It was by Augustine, then, that a theory was proposed and founded, which . . . contained the germ of that whole system of spiritual despotism, of intolerance and persecution, which ended in the tribunals of the Inquisition." — *Church History*, p. 217.

The history of the Inquisition is only the history of the carrying out of this infamous theory of Augustine's. But this theory is only the logical sequence of the theory upon which the whole series of Sunday laws was founded. The church induced the State to compel all to be idle for their own good. Then it was found that they all were more inclined to wickedness. Then to save them from all going to the Devil, they tried to compel all to go to heaven. The work of the Inquisition was always for love of men's souls, and to save them from hell !

Allow me to summarize these statements from Neander : He says of the carrying into effect of the theocratical theory of those bishops, that they made themselves dependent upon Constantine by their disputes, and "by their determination to use the power of the State for the furtherance of their aims." Then he mentions the first and second Sunday laws of Constantine ; the Sunday law of 386 ; the Carthage Convention, resolution, and petition of 401 ; and the law of 425 in response to this petition ; and then, without a break, and with direct reference to these Sunday laws, he says : "*In this way* the church received help from the State for

the furtherance of her ends." She started out with the determination to do it; she did it; and "*in this way*" she did it. And when she had secured the control of the power of the State, she used it for the furtherance of her own aims, and in her own despotic way, as announced in Augustine's Inquisitorial theory. The first step logically and inevitably led to the last; and the theocratical leaders in the movement had the cruel courage to follow the first step unto the last, as framed in the words of Augustine, and illustrated in the history of the Inquisition.

That is the system with which Sunday laws belong. That is the theory upon which they are based. They have no other foundation. Mr. Elliott, who has spoken here in behalf of this bill, knows that there is no law in the Bible for keeping the first day of the week. I could read a passage from his own book, "The Abiding Sabbath," page 184, in which he confesses "the complete silence of the New Testament, so far as any explicit command for the Sabbath, or definite rules for its observance, are concerned." And everybody knows that the Old Testament does not say anything about the observance of the first day of the week as Sabbath. Everybody likewise knows that the Old Testament does not say anything about keeping the first day of the week as the day of the resurrection of the Saviour, or for any other reason. Dr. Johnson and others here this morning have said that the first day of the week was chosen because it was a memorial of the resurrection of the Saviour. It is the New Testament that tells about the resurrection of the Saviour. That is granted. Dr. Elliott confesses, and the American Tract Society publishes it, that there is "complete silence of the New Testament" in regard to it. Then what right have they

to put it into a law, and try to compel by civil law all people to keep as the Lord's day that for which there is no scriptural authority? Let me read another passage from another book, printed by the American Sunday-school Union. On page 186 of "The Lord's Day," written by Mr. A. E. Waffle, are these words:—

"Up to the time of Christ's death, no change had been made in the day. The authority must be sought in the words or in the example of the inspired apostles."

Then on the very next page he says:—

"So far as the record shows, they [the apostles] did not, however, give any explicit command enjoining the abandonment of the seventh-day Sabbath, and its observance on the first day of the week."

Dr. Schaff, in the Schaff Herzog Cyclopedia, says:—

"No regulations for its observance are laid down in the New Testament, nor, indeed, is its observance even enjoined." — *Article Sunday*.

If, then, they confess that Christ gave no law for its observance, why do they want to compel people to observe it? What right have they to compel anybody to observe it? I deny their right to compel me or anybody else to do what Christ never commanded any man to do.

Senator Blair.—You admit there was a Sabbath before Christ came?

Mr. Jones.—Certainly.

Senator Blair.—And he said he came not to destroy, but to fulfill?

Mr. Jones.—Certainly.

Senator Blair.—Is there anything in the New Testament which destroyed the Sabbath already existing?

Mr. Jones.—No, sir.

Senator Blair.—Then why does it not continue to exist?

Mr. Jones.—It does exist, and we keep the commandment which provides for the Sabbath.

Senator Blair.—Then you say there is a Sabbath recognized, and that is equivalent to its re-affirmation by Christ?

Mr. Jones.—Certainly.

Senator Blair.—I do not see from what you are stating, but that Christ recognized an existing law, and that it is continuing at the present time. You say that it is one day, and they say that it is another.

Mr. Jones.—But they are after a law to enforce the observance of the first day of the week as the Lord's day, when they confess that the Lord never gave any command in regard to it. The commandment which God gave says that the "seventh day is the Sabbath."

Senator Blair.—Is it still the Sabbath?

Mr. Jones.—Certainly, and we keep it; but we deny the right of any civil government to compel any man either to keep it or not to keep it.

Senator Blair.—The civil government of the Jews compelled its observance?

Mr. Jones.—That was a theocracy.

Senator Blair.—Does it follow that when the only form of government is a theocracy and that embraces all that appertains to government, another form of government which is not a theocracy necessarily, cannot embrace the same subject-matter as the theocracy? If the subject-matter of a theocratical, a monarchical, or a republican form of government is not the same, to control the establishment of good order in society, pray what is it? We say, and it is our form of government, that the people shall legislate, shall construe the law,

and execute the law. Under the old theocratic form, God made the law, God construed it, and God executed it through his instrumentalities; but we do just the same thing by the will of the people, that under the theocratic form of government was done in the other way. Now if the Sabbath is necessarily for the general good of society, a republican form of government must make and enforce the observance of the Sabbath just as the theocracy did. You seem to be laboring, as it strikes me, under the impression that a civil government for the good of the people carried on by us under the republican form, cannot do anything that the theocratic form of government does when the theocratic is the only form. They necessarily cover the same subject-matter, — the control, the development, the good, and the health of society, it makes no difference which one it may be.

Mr. Jones. — A theocratic government is a government of God.

Senator Blair. — So are the powers that be ordained of God.

Mr. Jones. — This Government is not a government of God.

Senator Blair. — Do you not consider the Government of the United States as existing in accordance with the will of God ?

Mr. Jones. — Yes, but it is not a government of God. The government of God is a moral government. This is a *civil* government.

Senator Blair. — A theocracy is a civil government, and governs in civil affairs, as well as in the region of spirituality and morality and religion.

Mr. Jones. — Certainly, and God governs it, and nothing but a theocracy can enforce those things which

pertain to man's relation to God under the first four commandments.

Senator Blair. — But this proposed legislation is outside of the theocratic part of it.

Mr. Jones. — Not at all ; for it proposes by penalties to “promote” the religious observance of the Lord's day, while nothing but the government of God can do that. That is the point I am making here, that if you allow this legislation, you lead to the establishment of a new theocracy after the model of the papacy, and civil government has nothing to do with religious things. This bill is wholly religious ; and if you begin this course of religious legislation, you will end only in a theocracy, — a man-made theocracy, — and that will be the papacy repeated.

Senator Blair. — We have had the Sunday laws in this country for three hundred years. They have constantly become more and more liberalized. Have you ever known an instance, though the sentiment in favor of the Sabbath seems to be growing constantly stronger, where any State in this Union undertook to enact a law that anybody should go to church, which is the danger you seem to apprehend ?

Mr. Jones. — Not yet. They are now after the first law. This will lead to that. The law of Constantine was enacted in 321, and it commanded at first only that towns-people and mechanics should do no work, that they might be religious. They did not ask for too much at first. As was said in a ministers' meeting in San Diego, Cal., about two months ago, “In this thing you must not ask for too much at first. Ask just what public sentiment will bear, and when you get that, ask for more.” And as was said upon this bill by Dr. Crafts in this Capitol, —

"We will take a quarter of a loaf, half a loaf, or a whole loaf. If the Government should do nothing more than forbid the opening of the post-offices at church hours, it would be a national tribute to the value of religion, and would lead to something more satisfactory."

Then in telling what would be more satisfactory, he said :—

"The law allows the local postmaster, if he chooses (and some of them do choose), to open the mails at the very hour of church, and so make the post-office the competitor of the churches."

At another point in the same speech, Mr. Crafts referred to the proposed law as one for "protecting the church services from post-office competition." And in explaining how this could be done, he said :—

"A law forbidding the opening between ten and twelve, would accomplish this, and would be better than nothing ; *but we want more.*"

And,—

"A law forbidding any handling of Sunday mail at such hours as would interfere with church attendance on the part of the employees, would be better than nothing ; *but we want more than this.*"

He continues :—

"Local option in deciding whether a local post-office shall be opened at all on Sunday, we should welcome as better than nothing ; . . . *but we desire more than this.*"

How much more ? Still he continues :—

"A law forbidding all carrier delivery of mail on Sunday, would be better than nothing ; *but we want more than that.*"

And when will they ever get enough ? It is precisely as it was when the Emperor Constantine forbade the

judges, towns-people, and mechanics to work on Sunday. That was an imperial tribute to the "value of religion," and led to "something more satisfactory" — to the church managers.

Senator Blair. — Have you ever heard of a proposition's being made in any legislative body to compel any one to attend church on Sunday?

Mr. Jones. — The propositions that are made are for that very purpose, to stop the Sunday trains, the Sunday newspapers, — in short, to stop all work on Sunday, *so that the people can go to church.*

Senator Blair. — But these people come here and say that they have no such purpose, and they have been doing these things in the States for a hundred years, and during the Colonial period anterior to that time. Have you ever heard on the American continent, within the territory of what is now the United States, a proposition or a suggestion in a legislative body to compel anybody to attend church?

Mr. Jones. — Not in a legislative body, but in ecclesiastical bodies.

Senator Blair. — Ecclesiastical bodies do not make the laws. Congress is not an ecclesiastical body.

Mr. Jones. — But it is an ecclesiastical body that is seeking to secure and enforce this law, just as the New England theocracy did when "absence from 'the ministry of the word' was punished by a fine;" and then when people were compelled under such penalty to go to church and listen to the preaching, it was such preaching as, said one of the victims, "was meat to be digested, but only by the heart or stomacke of an ostrich."

Nor was this confined to Colonial times or to New England; for after the Colonies became States, North

Carolina had a Sunday law, — has yet, for aught I know, — reading as follows : —

“Be it enacted . . . that all and every person or persons shall on the Lord’s day, commonly called Sunday, carefully apply themselves to the duties of religion and piety.”

In 1803, Tennessee passed a law embodying the same words. But South Carolina and Georgia went farther than this ; South Carolina enacted that —

“All and every person whatsoever, shall, on every Lord’s day, apply themselves to the observation of the same, by exercising themselves thereon in the duties of piety and true religion, publicly and privately ; and having no reasonable or lawful excuse, on every Lord’s day shall resort to their parish church, or some other parish church, or some meeting or assembly of religious worship.”

In 1803, Georgia likewise enacted a Sunday law whose first section required all persons to attend public worship. In 1821, the State of Connecticut, in revising its laws, made its Sunday law read in the first section, that —

“It shall be the duty of the citizens of this State to attend the public worship of God on the Lord’s day.”

This is precisely the line of things proposed by these men and women now working for this Sunday law. This is the first step in that direction. The whole object which they have in view in stopping work on Sunday, is identical with that of the fourth century ; namely, in order that the people may be devoted, in order that they may go to church. The very intention of these men in securing the law is religious.

I will refer you to some of the statements of the very men who stood in this room this forenoon, arguing

for this Sunday bill. Dr. W. W. Everts, of Chicago, in a Sunday-law convention in Illinois, Nov. 8, 1887, declared Sunday to be the "test of all religion." Taking his own words, what can the enforcement of it ever be but the enforcement of a religious test? Dr. Crafts, who is so prominent in this work, said to the Knights of Labor at Indianapolis, as I have before quoted, and he repeated it in this city last night, "If you take *religion* out of the day, you take the *rest* out of it." This statement was made in reply to a question as to whether a day of rest could not be secured to the working-men without reference to religion. Taking the statement of Dr. Crafts, therefore, its being a day of rest to anybody depends altogether upon whether religion is in it; for if you take religion out, you take the rest out. He, with these others, demands a law compelling the people to take the *rest*. Religion being in the rest, and the rest wholly dependent upon the fact that religion is in it, it is inevitable that their effort to secure a law compelling everybody to rest on Sunday is an effort to establish by law a religious observance.

Again: in the Boston Monday lectureship of 1887, Joseph Cook said, —

"The experience of centuries shows that you will in vain endeavor to preserve Sunday as a day of rest, unless you preserve it *as a day of worship*."

Further: Dr. Everts said in the Elgin convention:—

"The laboring class are apt to rise late on Sunday morning, read the Sunday papers, and allow the *hour of worship* to go by unheeded."

And in Chicago only three weeks ago, Dr. Herrick Johnson named the matter with which he said the Sunday papers are filled—crime, scandal, gossip, news, and politics—and exclaimed:—

“What a *melange!* what a dish to set down before a man before breakfast and after breakfast, *to prepare him for hearing the word of God!* It makes it twice as hard to reach those who go to the sanctuary, and it *keeps many away from the house of worship altogether.*”

Dr. Everts said further in the Elgin convention : —

“The Sunday train is another great evil. They cannot afford to run a train unless they get a great many passengers, and *so break up a great many congregations.* The Sunday railroad trains are hurrying their passengers fast on to perdition. What an outrage that the railroad, that great civilizer, should destroy the Christian Sabbath !”

I will give one more statement which sums up the whole matter. In a Sunday-law mass-meeting held in Hamilton Hall, Oakland, Cal., in January, 1887, Rev. Dr. Briggs, of Napa, Cal., said to the State : —

“You relegate moral instruction to the church, and then let all go as they please on Sunday, so that we cannot get at them.”

Therefore they want the State to *corral* all the people on Sunday, so that the preachers can get at them.

These statements might be multiplied indefinitely ; but these are enough. The speeches, and the sermons, and the work, of those who are in favor of the Sunday laws, are all in the same line. They all plainly show that the secret and real object of the whole Sunday-law movement is to get the people to go to church. The Sunday train must be stopped, because church members ride on it, and don't go to church enough. The Sunday paper must be abolished, because the people read it instead of going to church, and because those who read it and go to church too, are not so well prepared to receive the preaching.

It was precisely the same way in the fourth century concerning the Sunday circus and theater. The people, even the church members, would go to these instead of to church; and even if they went to both, it must be confessed that the Roman circus or theater was not a very excellent dish — “What a *melange!*” — to set down before a man to prepare him for hearing the word of God. The Sunday circus and theater could not afford to keep open unless they could get a great many spectators, and so break up a great many congregations; and as they hurried the spectators fast on to perdition, they had to be shut on Sunday, so as to keep “a great many congregations” out of perdition. It is exceedingly difficult to see how a Sunday circus in the fourth century could hurry to perdition any one who did not attend it; or how a Sunday train in the nineteenth century can hurry to perdition any one who does not ride on it. And if any are hurried to perdition by this means, who is to blame: the Sunday train, or the ones who ride on it? And Dr. Johnson’s complaint of the Sunday papers, is of the same flimsy piece. If the Sunday paper gets into a man’s house, where lies the blame: upon the paper, or upon the one who takes it and reads it? Right here lies the secret of the whole evil now, as it did in the fourth century: they blame everybody and everything else, even to inanimate things, for the irreligion, the infidelity, and the sin that lie in their own hearts.

When they shall have stopped all Sunday work, and all Sunday papers, and all Sunday trains, in order that the people may go to church and attend to things divine, suppose that then the people fail to go to church or attend to things divine: will the religio-political managers stop there? Having done all this that the

people may be devoted, will they suffer their good intentions to be frustrated, or their good offices to be despised? Will not these now take the next logical step, — the step that was taken in the fourth century, — and *compel* men to attend to things divine? Having taken all the steps but this, will they not take this? Having compelled men to rest, will they stop short of an effort to supply the religious sanctions which alone can prevent a day of enforced rest from being a day of enforced idleness, and consequently of wickedness? The probability that they will not is strengthened by the fact that the theory upon which this is carried on is identical with that of the fourth century — the theory of a theocracy.

I have cited the theocratical purpose of the Woman's Christian Temperance Union. The National Reform Association, whose secretary stood at this table to-day to plead for the passage of this bill, aims directly at the establishment of a theocracy in this Government. In their own words, they propose to make this republic "as truly and really a theocracy as the commonwealth of Israel."

The Sunday-law Association also holds much the same theory. In the Elgin Sunday-law convention, Dr. Mandeville, of Chicago, said : —

"The merchants of Tyre insisted upon selling goods near the temple on the Sabbath, and Nehemiah compelled the officers of the law to do their duty, and stop it. So we can compel the officers of the law to do their duty."

Nehemiah was ruling there in a true theocracy, a government of God ; the law of God was the law of the land, and God's will was made known by the written word, and by the prophets. Therefore if Dr. Mandeville's argument is of any force at all, it is so only upon

the claim of the establishment of a theocracy. With this idea the view of Dr. Crafts agrees precisely, and Dr. Crafts is general field secretary for the National Sunday-law Union. He claims, as expressed in his own words, that —

“The preachers are the successors of the prophets.”
— *Christian Statesman*, July 5, 1888.

Now put these things together. The government of Israel was a theocracy; the will of God was made known to the ruler by prophets; the ruler compelled the officers of the law to prevent the ungodly from selling goods on the Sabbath. This government is to be made a theocracy; the preachers are the successors of the prophets; and they are to compel the officers of the law to prevent all selling of goods and all manner of work on Sunday. This shows conclusively that these preachers intend to take the supremacy into their hands, officially declare the will of God, and compel all men to conform to it. And this deduction is made certain by the words of Prof. Blanchard, in the Elgin convention : —

“In this work we are undertaking for the Sabbath, we are the representatives of God.”

And the chief of these representatives of God, will be but a pope again; because when preachers control the civil power as the representatives of God, a pope is inevitable.

These quotations prove, to a demonstration, that the whole theory upon which this religio-political movement is based, is identical with that of the fourth century, which established the papacy. They show also that the means employed — Sunday laws — by which to gain control of the civil power to make the wicked

theory effective, are identical with the means which were employed in the fourth century for the same purpose. The next question is, Will they carry the theory into effect as they did in the fourth century and onward? In other words, when they get the power to oppress, will they use the power? A sufficient answer to this would seem to be the simple inquiry, If they do not intend to use the power, then why are they making such strenuous efforts to get it? If Congress lets them have the power, they will surely use it. Human nature is the same now as it was in the fourth century. Politics is the same now as it was then. And as for religious bigotry, it knows no centuries; it knows no such thing as progress or enlightenment; it is ever the same. And in its control of civil power, the cruel results are also ever the same

How appropriate, therefore, is it that Cardinal Gibbons should indorse the national Sunday bill! How natural, indeed, that he should gladly add his name to the number of petitioners in support of the movement to secure legislation in the interests of the church! He knows just how his brethren in the fourth century worked the same kind of scheme; he knows what the outcome of the movement was then; and he knows full well what the outcome of this movement will be now. He knows that the theory underlying this movement is identical with the theory which was the basis of that; he knows the methods of working are the same now as they were then; he knows that the means employed to secure control of the civil power now, are identical with the means employed then; and he knows that the result must be the same. He knows that when religion shall have been established as an essential element in legislation in this Government, the experience of fifteen

hundred eventful years, and "the ingenuity and patient care" of fifty generations of statesmen, will not be lost in the effort to make the papal power supreme over all here and now, as was done there and then. And in carrying out the instructions of Pope Leo XIII., that "all Catholics should do all in their power to cause the constitutions of States and legislation to be modeled upon the principles of the true church," the Cardinal assuredly *is* glad to have the opportunity to add his name to the more than six millions of Protestants who are set for the accomplishment of the same task.

To those Protestants who are so anxious to make religion a subject of legislation, it now appears very desirable; and it also appears a very pleasant thing to secure the alliance of the papacy. But when they shall have accomplished the feat, and find themselves in the midst of a continuous whirl of political strife and contention with the papacy, not alone for supremacy, but for *existence*,—then they will find it not nearly so desirable as it now appears to their vision, blinded by the lust for illegitimate power.

And when they find themselves compelled to pay more than they bargained to, they will have but themselves to blame; for when they make religion a subject of legislation, they therein confess that it is justly subject to the rule of majorities. And then, if the Romish Church secures the majority, and compels the Protestants to conform to Catholic forms and ordinances, the Protestants cannot justly complain. Knowing, as we do, the outcome of the same kind of movement before, we do not propose to allow this scheme to be worked out here without a decided protest.

Senator Blair.—You are entirely logical, because you say there should be no Sunday legislation by State or nation either.

Mr. Jones.—Yes, sir, of course I am logical, all the way through. I want to show you the wicked principle upon which this whole system is founded, and the reason I do this is because the last step is involved in the first one. If you allow this principle and this movement to take the first step, those who get the power will see in the end that they take the last step. That is the danger. See how in the fourth century the logic of it ended only with the Inquisition.

Senator Blair.—Was the Inquisition abolished by the abolition of the Sunday laws?

Mr. Jones.—No; but the principle of it was established by Sunday laws.

Senator Blair.—Then if the Inquisition was established by the Sunday laws, how was it abolished, but by the abolition of the Sabbath? How can you remove an effect except by removing its cause?

Mr. Jones.—The Sunday laws never have been abolished.

Senator Blair.—Then the Sunday law could not have been the cause of the Inquisition.

Mr. Jones.—The power which embodies the Inquisition still continues, and its emissaries have been in this country defending the Inquisition. That same power is now grasping for the control of the civil law, and the same causes generally produce the same effects.

Senator Blair.—And the removal of the causes removes the effects with them.

Mr. Jones.—Sometimes.

Senator Blair.—Therefore the Sunday laws were not the cause of the Inquisition, unless the Inquisition still exists.

Mr. Jones.—No, the Sunday laws did not *cause* the Inquisition.

Senator Blair.—I understood you to say that it di—

Mr. Jones. — I say, through that the church received the power to make the principle and the work of the Inquisition effective. A certain exercise of power may be forbidden, and yet the means by which the power was obtained may not be forbidden. In other words, the power which was obtained through the deception of Sunday laws, may be prohibited in certain things, and yet allowed in many other things.

Senator Blair. — The Lord made the Sabbath, and governed the Jewish nation for nearly three thousand years with a Sabbath. Do you think the Sabbath was for the good of the Jewish people, or for their injury?

Mr. Jones. — It was established for the good of the human race.

Senator Blair. — Including the Jewish people?

Mr. Jones. — Yes, sir.

Senator Blair. — It was established as a part of the civil administration.

Mr. Jones. — But the church and the State were one.

Senator Blair. — Therefore what we call the civil administration was included in that theocracy.

Mr. Jones. — The church and the State were one. They were united, and it was a theocracy.

Senator Blair. — If the administration of the Sabbath during these three thousand years, at least, was for the good of the Jews and the human race, why will not the Sabbath be good for the Jews and the human race since the time of Christ, as well as before?

Mr. Jones. — It is for the good of the human race.

Senator Blair. — The civil law must administrate it if it is done. Then we will get no Sabbath now under our division of powers of government, unless we have the Sabbath recognized and enforced by the State authority?

Mr. Jones. — Certainly we have a Sabbath.

Senator Blair. — Your proposition is to strike out the Sabbath from the Constitution and condition of society in these modern times?

Mr. Jones. — No, sir.

Senator Blair. — Certainly so far as its existence and enactment and enforcement by law are concerned.

Mr. Jones. — Yes, by civil law.

Senator Blair. — It was enforced in what we call the civil conduct of men under that theocratic form of government for at least three thousand years.

Mr. Jones. — Certainly.

Senator Blair. — Now the observance of the Sabbath depends upon a compulsory observance of the law.

Mr. Jones. — Not at all.

Senator Blair. — It required the law of God which he enforced by death, by stoning men to death when they violated it, and we have the Sabbath day only by virtue of what we call the civil law, which is equally a part of God's law.

Mr. Jones. — That government was not organized specially to enforce the Sabbath.

Senator Blair. — They stoned men to death who violated the law.

Mr. Jones. — Certainly ; and likewise for the transgression of the other commandments.

Senator Blair. — God enforced it, in other words, by human means.

Mr. Jones. — Certainly ; my answer to all that is that that was a theocracy, — a union of church and state. The church was the State, and the State was the church.

Senator Blair. — You say now that there is no State to enforce it?

Mr. Jones. — I say that no government can enforce the Sabbath, or those things which pertain to God, except a theocratic government — a union of church and state. Therefore I say that if you establish such a law as is here proposed, you lead directly to a union of church and state. The logic of the question demands it, and that is where it will end, because the law cannot be enforced otherwise. These gentlemen say they do not want a union of church and state. What they mean by church and state is, for the State to select one particular denomination, and make it the favorite above all other denominations. That is a union of church and state according to their idea. But a union of church and state was formed by Constantine when he recognized Christianity as the religion of the Roman empire. Everybody knows that that was a union of church and state, and that it ended in the papacy. A union of church and state is where the ecclesiastical power controls the civil power, and uses the civil power in its own interests. That is where this movement will end, and that is one of the reasons why we oppose it.

Senator Blair. — You say the church and state separated shall not do those proper things which the church and state always did when united in the theocracy?

Mr. Jones. — No, sir.

Senator Blair. — Then why do you say that the state —

Mr. Jones. — I did not mean to deny your proposition; I think the way you intended, I mean "Yes," because I certainly do say that the church and state separated shall do those proper things which were done when they were united in the theocracy.

Senator Blair. — If in this division of the powers of

government into church and state, you exclude from the powers of the church the establishment and enforcement and regulation of the Sabbath, why do you not necessarily, if the Sabbath is a good thing, pass it over to the control of the State?

Mr. Jones. — Because if the church will not recognize it and preserve it, the State cannot compel people to do it. The State that attempts it is bound to fail.

Senator Blair. — Then you necessarily take the ground that God did wrong in the enforcement of the Sabbath during those three thousand years when his government was both church and state.

Mr. Jones. — No, sir. If God would come himself to govern, and make himself governor, as he did of Israel, he could enforce the law as he did there. But until God does that, we deny the right of all the churches or anybody else, to do it.

Senator Blair. — Even if it is for the good of society?

Mr. Jones. — What they say is for the good of society is for the ruin of society.

Senator Blair. — Do you understand that it is the church or the State that is making this law?

Mr. Jones. — It is the State that is doing it, just as Constantine did it, *to satisfy the churches.*

Senator Blair. — It may or may not satisfy the churches. The churches give their reasons here, which may be right or wrong, for the establishment of the Sabbath — for this Sunday legislation in all the States. The State, the whole people, make the law. You say that the whole people shall not make a good law because the churches ask for it.

Mr. Jones. — I say the whole people shall not make a bad law, even though the churches do demand it; for any civil law relating to God is a bad law.

Senator Blair. — Then what God did for three thousand years for the good of the Jews and the human race, was wrong?

Mr. Jones. — No, sir; it was right.

Senator Blair. — Then why not continue it?

Mr. Jones. — Because he has discontinued that kind of government.

Senator Blair. — We have done nothing in the world to divide the powers of government into those of church and state. We say those departments shall not interfere with each other.

Mr. Jones. — Certainly.

Senator Blair. — Here and in the States we are trying to run the civil parts. We have taken jurisdiction of a portion of what God has entire jurisdiction, as to the church and state in the civil relations of men. The entire society does that. We put the sovereignty into the hands of everybody except women, and some of us are trying to do that. We have the same subject-matter, the good of society under our control, which under the theocracy was united into both church and state. If you do not let the State continue to do what was essential to society then, and is now, you are striking at one of the great ends for which government exists.

Mr. Jones. — Not at all; because God has discontinued that kind of government.

Senator Blair. — He has not discontinued the necessity of laws for the regulation of society.

Mr. Jones. — He has in that way.

Senator Blair. — No; it is just as necessary that there should be a Sabbath now for the good of man, as when God made and enforced the law by his direct supervision under a theocracy.

Mr. Jones. — But no government but a theocracy can enforce such laws.

Senator Blair. — Then unless we have a theocracy, we shall have no Sabbath.

Mr. Jones. — We shall have no laws regulating the Sabbath.

Senator Blair. — The Sabbath did not descend to the Jews and to all mankind, because there was a theocratic form of government among the Jews. How did the Sabbath come to mankind at large, when there was no theocratic form of government?

Mr. Jones. — Those nations never kept it. Nobody but the Jews ever kept it.

Senator Blair. — They could have kept it, because you say the Sabbath existed for all; not for the Jews alone, but for the human race.

Mr. Jones. — Certainly, but if they did not keep it, it would do no good.

Senator Blair. — It did not exist for good, then?

Mr. Jones. — Certainly; a thing may exist for my good, and I may refuse to use it, as thousands do the salvation of Christ.

Senator Blair. — I was taking your statement as true that it did exist for good outside of the Jews.

Mr. Jones. — I said it was for the good of man. The Saviour said it was for the good of man. The Saviour died for the good of man.

Senator Blair. — You would abolish the Sabbath, anyway?

Mr. Jones. — Yes, in the civil law.

Senator Blair. — You would abolish any Sabbath from human practice which shall be in the form of law, unless the individual here and there sees fit to observe it?

Mr. Jones.—Certainly ; that is a matter between man and his God.

Senator Blair.—Your time has expired. Please take five minutes to close, as I have asked you some questions ; still, they were questions that touched the trouble in my own mind.

Mr. Jones.—Certainly ; but I supposed that I was to have an hour to devote, uninterruptedly, to the points in question.

Senator Blair.—We have always been accustomed to conducting these hearings with reference to getting at the difficulties we had in our own minds, and I do not feel as though you could complain with an hour and ten minutes, if we give you ten minutes more.

Mr. Jones.—Very good. Mr. Chairman, I have shown that in the fourth century this same movement developed a theocracy and in that the papacy, religious despotism, and oppression for conscience' sake. Now I want to show the secret of at least a portion of the present movement. The representative of the National Reform Association spoke here in behalf of this proposed legislation. That Association is asking for such a law and for such an amendment to the Constitution as you have proposed, in relation to the Christian religion in the public schools. That measure pleases them well, and this proposed Sunday law pleases them well.

Senator Blair.—Just incorporate that proposed amendment to the Constitution in your remarks.

Mr. Jones.—Very well ; it is as follows :—

“ 50th CONGRESS, } S. R. 86.
1st SESSION. }

“ Joint Resolution, proposing an amendment to the Constitution of the United States respecting establishments of religion and free public schools.

“ Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following amendment to the Constitution of the United States be, and hereby is, proposed to the States, to become valid when ratified by the legislatures of three-fourths of the States, as provided in the Constitution :—

“ ARTICLE.

“ SECTION 1. No State shall ever make or maintain any law respecting an establishment of religion, or prohibiting the free exercise thereof.

“ SEC. 2. Each State in this Union shall establish and maintain a system of free public schools adequate for the education of all the children living therein, between the ages of six and sixteen years, inclusive, in the common branches of knowledge, and in virtue, morality, and the principles of the Christian religion. But no money raised by taxation imposed by law, or any money or other property or credit belonging to any municipal organization, or to any State, or to the United States, shall ever be appropriated, applied, or given to the use or purposes of any school, institution, corporation, or person, whereby instruction or training shall be given in the doctrines, tenets, belief, ceremonies, or observances peculiar to any sect, denomination, organization, or society, being, or claiming to be, religious in its character ; nor shall such peculiar doctrines, tenets, belief, ceremonies, or observances be taught or inculcated in the free public schools.

“ SEC. 3. To the end that each State, the United States, and all the people thereof, may have and preserve governments republican in form and in substance, the United States shall guaranty to every State, and to the people of every State and of the United States, the support and maintenance of such a system of free public schools as is herein provided.

“ SEC. 4. That Congress shall enforce this article by legislation when necessary.”

What, then, do these men propose to do with the civil power when they can use it? The *Christian Statesman* is the organ of that Association, and in its issue of Oct. 2, 1884, said : —

“Give all men to understand that this is a Christian nation, and that, believing that without Christianity we perish, we must maintain by all means our Christian character. Inscribe this character on our Constitution. Enforce upon all who come among us the laws of Christian morality.”

To enforce upon men the laws of Christian morality, is nothing else than an attempt to compel them to be Christians, and does in fact compel them to be hypocrites. It will be seen at once that this will be but to invade the rights of conscience, and this, one of the vice-presidents of the Association declares, civil power has the right to do. Rev. David Gregg, D. D., now pastor of Park Street Church, Boston, a vice-president of the National Reform Association, plainly declared in the *Christian Statesman* of June 5, 1884, that the civil power “has the right to command the consciences of men.”

Rev. M. A. Gault, a district secretary and a leading worker of the Association, says : —

“Our remedy for all these malefic influences, is to have the Government simply set up the moral law and recognize God’s authority behind it, and lay its hand on any religion that does not conform to it.”

When they have the Government lay its hand on dissenters, what will they have it do? Rev. E. B. Graham, also a vice-president of the Association, in an address delivered at York, Neb., and reported in the *Christian Statesman* of May 21, 1885, said : —

"We might add in all justice, If the opponents of the Bible do not like our Government and its Christian features, let them go to some wild, desolate land, and in the name of the Devil, and for the sake of the Devil, subdue it, and set up a government of their own on infidel and atheistic ideas; and then if they can stand it, stay there till they die."

That is what they propose to do. And that is worse than Russia. In the *Century* for April, 1888, Mr. Kennan gave a view of the statutes of Russia on the subject of crimes against the faith, quoting statute after statute providing that whoever shall censure the Christian faith or the orthodox church, or the Scriptures, or the holy sacraments, or the saints, or their images, or the Virgin Mary, or the angels, or Christ, or God, shall be deprived of all civil rights, and exiled for life to the most remote parts of Siberia. This is the system in Russia, and it is in the direct line of the wishes of the National Reform Association.

Nor is that all. Rev. Jonathan Edwards, D. D., another vice-president of that Association, makes all dissenters atheists. He names atheists, deists, Jews, and Seventh-day Baptists, then classes them all together as atheists. I will read his own words:—

"These all are, for the occasion, and so far as our amendment is concerned, one class. They use the same arguments and the same tactics against us. They must be counted together, which we very much regret, but which we cannot help. The first-named is the leader in the discontent and in the outcry—the atheist, to whom nothing is higher or more sacred than man, and nothing survives the tomb. It is his class. Its labors are almost wholly in his interest; its success would be almost wholly his triumph. The rest are adjuncts to him in this contest. They must be named from him; they must be treated as, for this question, one party."

They class us as atheists, and are going to condemn all alike ; and you are asked to give them the power. Remember these are the views of the members of the National Reform Association, whose secretary stood at this table this morning in defense of this Sunday law. These extracts show what his ideas are, and how he would use them. Dr. Everts, of Chicago, who also was here, declared last month in Chicago, in my hearing, on the subject of this Sunday law, that "it is atheism or the Sabbath."

Mr. Edwards continues :—

"What are the rights of the atheist? I would tolerate him as I would tolerate a poor lunatic ; for in my view his mind is scarcely sound. So long as he does not rave, so long as he is not dangerous, I would tolerate him. I would tolerate him as I would a conspirator. The atheist is a dangerous man. Yes, to this extent I will tolerate the atheist ; but no more. Why should I? The atheist does not tolerate me. He does not smile either in pity or in scorn upon my faith. He hates my faith, and he hates me for my faith. . . . I can tolerate difference and discussion ; I can tolerate heresy and false religion ; I can debate the use of the Bible in our common schools, the taxation of church property, the propriety of chaplaincies and the like, but there are some questions past debate. *Tolerate atheism, sir? There is nothing out of hell that I would not tolerate as soon!* The atheist may live, as I have said ; but, God helping us, the taint of his destructive creed shall not defile any of the civil institutions of all this fair land ! Let us repeat, atheism and Christianity are contradictory terms. They are incompatible systems. *They cannot dwell together on the same continent!*"

Senator Blair.—Many atheists are for Sunday laws.

Mr. Jones.—Let them be so if they choose ; but what I am striking at, is that these men have no right

to say that I am an atheist simply because I do not believe in keeping Sunday.

Senator Blair.— You come here and seriously argue against these people, because they and the atheists blackguard each other. What have we to do with that? They abuse each other. It is worse in the Christian than in the atheist, because the Christian has some rules to guide his conduct, which the atheist has not. Here seems to be some strong intemperate language which one human being makes use of towards another. An atheist or a Christian alike may find fault with that. I do not know any way that we can interfere with it; but if you claim to argue against this bill because these people abuse atheists, I reply to that by saying that many atheists are for this bill just as these people are. They unite in support of this bill, therefore mutual recriminations amount to nothing.

Mr. Jones.— But the mutual recrimination amounts to this, that although this is confined simply to words between them now, —

Senator Blair.— I do not think you ought to argue to us by taking this precious time of yours and ours to show that these people use intemperate language towards each other.

Mr. Jones.— But I am doing it to show that they use the intemperate language now, but if they get the law, they will use more than the language against them. These men only want to make the State a party to their religious disputes. They want to get the nation by law to commit itself to the defense of religious observances, so they can add its power to their side of the controversy, and send to "hell" or some other place where the Devil is, those who even accidentally disagree with them. But the State has no business to allow itself to

be made a party to any religious controversy. That has been the bane of every nation except this, and God forbid that this one should be dragged from its high estate, and made the tool of the irregular passions of religious parties. The State will find its legitimate employment in seeing that these parties keep their hands off each other, and that the ebullitions of their religious zeal are kept within the bounds of civility. It is not safe to put civil power into the hands of such men as these. But that is just what this Sunday bill will do if it shall pass.

Senator Blair. — The atheist is for this proposed law. He is not intelligently going to support a law which enables these people to burn him at the stake.

Mr. Jones. — I know he is not intelligently going to do it.

Senator Blair. — He is liable to be as intelligent as they are. Mr. Hume was a very intelligent man ; so was Voltaire ; so was Franklin, if Franklin was an atheist ; Franklin was a deist, at all events.

Mr. Jones. — It is safe to say that not one in ten of the people whose names are signed in behalf of this Sunday law know what is the intention of it, and what those will do with it when they get it.

Senator Blair. — Then it is a lack of intelligence on their part.

Mr. Jones. — I know people who signed that petition who would now be just as far from signing it as I would.

Senator Blair. — That is because you told them of those terrible consequences which they had not believed would follow. The masses of the people do not believe that the Christian people of this country have united in every State in this Union for such a purpose.

Mr. Jones. — Here is the principle : Here are six million Protestants and seven million two hundred thousand Catholics —

Senator Blair.—Cardinal Gibbons has written a letter which is in evidence. He is for it, and a great many Catholics are also for it; but it does not follow that those Catholics are for it simply because Cardinal Gibbons wrote that letter. They were for it before Cardinal Gibbons wrote the letter. You must remember that the Catholics in this country are intelligent, as well as we. Some of them are ignorant, some of us are ignorant.

Mr. Jones.—But here is the point. These people are complaining of the continental Sunday —

Senator Blair.—They do not complain of it because it is Catholic; they complain of it because it is not as good for the people as our form of Sunday.

Mr. Jones.—Certainly. And in this movement, the American Sunday, they say, comes from the Puritans, and these people know —

Senator Blair.—Do you argue against it because it comes from the Puritans, or because it comes from the Catholics? It comes from both, you say; we say it is for the good of society, and that God is for it, because it is for the good of man.

Mr. Jones.—But let me state the point that I am making: I think everybody knows that it is perfectly consistent with the Catholic keeping of Sunday for the Catholic to go to church in the morning and to the pleasure resort if he chooses in the afternoon. These men stand here in convention, and cry out against the continental Sunday and against its introduction here. Everybody knows that the continental Sunday is the Roman Catholic Sunday. Yet these men, while denouncing the continental Sunday, join hands with the Roman Catholics to secure this Sunday law. They have counted here six million Protestants and seven million two hundred thousand Catholics. Suppose this law were secured in answer to these petitions, would

they then have a Puritan Sabbath, or a continental Sunday ? In other words, would the six million Protestants compel the seven million two hundred thousand Catholics to keep Sunday in the Puritan, or even the Protestant way, or will the seven million two hundred thousand Catholics do as they please on Sunday, and let the six million Protestants whistle for "the breath of the Puritan" which Dr. Herrick Johnson invokes ? More than this, if it should come to compulsion between these, would not the seven million two hundred thousand Catholics be able to make it unpleasant for the six million Protestants ?

Senator Blair.—I have been all through this that the working people go through. I have been hungry when a boy. The first thing I can remember about is being hungry. I know how the working people feel. I have tugged along through the week, and been tired out Saturday night, and I have been where I would have been compelled to work to the next Monday morning if there had been no law against it. I would not have had any chance to get that twenty-four hours of rest if the Sunday law had not given it to me. It was a civil law under which I got it. The masses of the working people in this country would never get that twenty-four hours' rest if there had not been a law of the land that gave it to us. There is that practical fact, and we are fighting with that state of things. The tired and hungry men, women, and children, all over this country, want a chance to lie down, and rest for twenty-four hours out of the whole seven days.

Mr. Jones.—So have I been through this that the working people go through. I have carried the hod by the day. I have swung the hammer and shoved the plane by the day. I am a working-man now just as much as I ever was, though not in precisely the same way ; and I say to you that I never was robbed of that

twenty-four hours' rest. Nor are there so many compelled to lose it as these Sunday-law advocates try to make out. Dr. Crafts said last night over in that convention that he had had communication with people in every nation but two, and —

“In the world around he could not find a man who had financially lost by refusing to work on Sunday. But many have gained by the conscientious sacrifice.”

Much testimony was borne in the Chicago convention last month to the same effect in this country ; and in the convention now in session in this city, the Hon. Mr. Dingley, member of Congress from Maine, said last night that the American working-men are indifferent to the efforts which are put forth in this direction.

Senator Blair. — He is wrong about it. Mr. Dingley didn't know what he was talking about when he said that.

Mr. Jones. — He said he had investigated the matter.

Senator Blair. — I have investigated it, and I say that Mr. Dingley was simply laboring under a misapprehension.

Mr. Jones. — Dr. Crafts said this morning that he talked two hours with a convention of laboring men at Indianapolis, answering their questions, until at the end of two hours they indorsed this movement. If they are crying for it, if they are fairly tearing their hair for it, how can it be possible that he had to talk two hours to persuade them that it was all right ?

Senator Blair. — Take his statement in full, if you take it at all. He says they are crying for it.

Mr. Jones. — Then why was it necessary to talk to them for two hours ?

Senator Blair. — Then you simply say he did not tell the truth ? You discredit the witness ?

Mr. Jones. — I do,

Senator Blair. — You say perhaps he did not tell the truth, that is all. I think he was right.

Mr. Jones. — But the two things do not hitch together properly. If they are calling for it so loudly, certainly it ought not to require two hours to convert them. The fact is that the laboring men are not calling for it. Great effort is being made to have it appear so. But the Knights of Labor never took any such step except at the solicitation of Dr. Crafts. This bill had scarcely been introduced last spring before Dr. Crafts made a trip to Chicago and other cities, soliciting the indorsement of the Knights of Labor. Instead of their petitioning for this Sunday law, they have first been petitioned to petition for it ; the object of it had to be explained, and objections answered, before they could even be brought to support it. The object of the petition for this bill was explained by Dr. Crafts to the Central Labor Union of New York, and its indorsement secured. The Central Labor Union embraces a number of labor organizations, and the *Christian Union* declares the Central Labor Union to be a “radically Socialistic” organization. This, in itself, would not be particularly significant were it not for the fact that the arguments which Dr. Crafts presents to these organizations to gain their support are entirely Socialistic. Nor are these confined to Dr. Crafts. Other leaders of the movement also advocate the same principles.

Dr. Crafts went to the General Assembly of the Knights of Labor at Indianapolis last month to get the delegates there to indorse the petition for the passage of this Sunday bill. He has referred to this in his speech here this forenoon, and has made a portion of his speech to them and to the Locomotive Engineers a part of his speech here. A report of his speech at Indianapolis was printed in the *Journal of United Labor*, the official journal of the Knights of Labor of America, Thursday, Nov, 29, 1888. He said to them there : —

“Having carefully read and re-read your ‘declaration of principles’ and your ‘constitution,’ and having watched with interest the brave yet conservative shots of your *Powderly* at intemperance and other great evils, I have found myself so closely in accord with you that I have almost decided to become a Knight of Labor myself. If I do not, it will be only because I believe I can advance your ‘principles’ better as an outside ally.”

The following question was asked by one of the Knights : —

“Would it not be the best way to stop Sunday trains to have the Government own and control the railroads altogether, as the Knights advocate?”

Dr. Crafts answered : —

“I believe in that. Perhaps the best way to begin the discussion of Government control for seven days per week is to discuss this bill for Government control on one day. If the railroads refuse the little we now ask, the people will be the more ready to take control altogether.”

The Knights of Labor advocate the doctrine that the Government shall take control of all the railroads in the country, and hire the idle men in the country at regular railroad wages, and run the roads, as it now runs the Post-office Department, without reference to the question whether anything is made or lost by the Government. This is what gave rise to the above question. Dr. Crafts proposes to play into their hands by making the bid for their support, that if they will help the Sunday-law workers get Government control of the railroads one day in the week, then the Sunday-law workers will help the Knights to get Government control every day in the week.

Another question that was discussed both there and at the convention of Locomotive Engineers at Richmond, Va., was the following : —

“Will not one day's less work per week mean one-seventh less wages?”

The response to this was as follows :—

“As much railroad work as is done in seven days can be done in six days, and done better, because of the better condition of the men. And on this ground the engineers would be sustained in demanding, and, if necessary, compelling, the railroad company to so re-adjust the pay schedule that the men will be paid as much as at present.”

That is to say, Dr. Crafts and the Sunday-law workers propose to stand in with the laboring men to compel employers to pay seven days' wages for six days' work. This is made certain by the following petition to the State legislatures, which is being circulated everywhere with the petition for this bill. I got this at the Chicago convention. Dr. Crafts distributed the petitions by the quantity there, and he is doing the same at the convention now in this city :—

“*To the State Senate [or House]*: The undersigned earnestly petition your honorable body to pass a bill forbidding any one to hire another, or to be hired for more than six days in any week, except in domestic service, and the care of the sick ; in order that those whom law or custom permits to work on Sunday may be protected in their right to some other weekly rest-day, and in their right to a week's wages for six days' work.”

Now a week consists of seven days. A week's wages for six days' work is seven days' wages for six days' work. This petition asks the legislatures of all the States to pass a law protecting employees in their *right* to seven days' wages for six days' work. No man in this world has any right to seven days' wages for six days' work. If he has a right to seven days' wages for six days' work, then he has an equal right to six days'

wages for five days' work ; and to five days' wages for four days' work ; and to four days' wages for three days' work ; to three days' wages for two days' work ; to two days' wages for one day's work ; and to one day's wages for no work at all. This is precisely what the proposition amounts to. For in proposing to pay seven days' wages for six days' work, it does propose to pay one day's wages for no work. But if a man is entitled to one day's wages for doing nothing, why stop with one day ? Why not go on and pay him full wages every day for doing nothing ? It may be thought that I misinterpret the meaning of the petition ; that, as it asks that nobody be allowed to hire another for more than six days of any week, it may mean only that six days are to compose a week ; and that it is a week's wages of six days only that is to be paid for six days' work. That is *not* the meaning of the petition. It is not the intention of those who are gaining the support of the Knights of Labor by inventing and circulating the petition.

Dr. George Elliott, pastor of the Foundry Methodist Church in this city, — the church in which this National Sunday Convention is being held, — the church that is now festooned with fourteen million petitions that they have n't got, — festooned, at least partly, with *one* seven-million-two-hundred-thousand-times-multiplied Cardinal, — Dr. Elliott, while speaking in favor of this bill this forenoon, was asked by Senator Call these questions : —

“ Do you propose that Congress shall make provision to pay the people in the employ of the Government who are exempted on Sunday, for Sunday work ? ”

“ *Mr. Elliott.* — I expect you to give them adequate compensation.

“ *Senator Call.* — Do you propose that the same amount shall be paid for six days' work as for seven ?

“*Mr. Elliott.* — I do ; for the reason that we believe these employees can do all the work that is to be done in six days. And if they do all the work, they ought to have all the pay.” .

There it is in plain, unmistakable words, that they deliberately propose to have laws, State and national, which shall compel employers to pay seven days' wages for six days' work. This is sheer Socialism ; it is the very essence of Socialism. No wonder they gained the unanimous indorsement of the convention of the Knights of Labor, and of the Locomotive Engineers, and the Socialistic Labor Union of New York City, by proposing to pay them good wages for doing nothing. I confess that I, too, would support the bill upon such a proposition as that *if I looked no further than the money that is in it.*

But this is not all. The Knights of Labor not only accept the proposition, but they carry it farther, and logically, too. This principle has been advocated for some time by the Knights of Labor in demanding ten hours' pay for eight hours' work — virtually two hours' pay for doing nothing. The *Christian Union* and the *Catholic Review* propose to help the working-men secure their demanded eight-hour law, and then have the working-men help to get the six-day law by forbidding all work on Sunday. Dr. Crafts and Dr. Elliott go a step farther, and propose to secure the support of the working-men by having laws enacted compelling employers to pay them full wages on Sunday for doing nothing. But the Knights of Labor do not propose to stop with this. The same copy of the *Journal of United Labor* which contained the speech of Dr. Crafts, contained the following in an editorial upon this point : —

“Why should not such a law be enacted? All the work now performed each week could easily be accomplished in five days of eight hours each if employment

were given to the host of willing idle men who are now walking the streets. It is a crime to force one portion of a community to kill themselves by overwork, while another portion of the same people are suffering from privation and hunger, with no opportunity to labor. The speech of the Rev. Mr. Crafts, published elsewhere, furnishes an abundance of argument as to why such a law should be put in force."

So when the Sunday-law advocates propose to pay a week's wages for six days' work of eight hours each, because all the work can be done in six days that is now done in seven, then the Knights of Labor propose to have a week's wages for five days' work, because, by employing all the idle men, all the work that is now done in seven days can be done in five. And as Dr. Elliott has said, "If they do all the work, they ought to have all the pay." But if a week's wages are to be paid for five days' work of eight hours each, that is to say, if two days' wages can rightly be paid for no work at all, why should the thing be stopped there? If the Government is to take control of the railroads all the time in order to pay two days' wages for doing nothing, and if the States are to enact laws compelling employers to pay employees two days' wages for doing nothing, then why shall not the Government, both State and national, take possession of everything, and pay the laboring men full wages all the time for doing nothing? For if men have the right to one day's wages for no work, where is the limit to the exercise of that right? The fact of the matter is that there is no limit. If a man is entitled to wages for doing nothing part of the time, he is entitled to wages for doing nothing all the time. And the principle upon which Dr. Crafts and his other Sunday-law *confrères* gain the support of the working-men to this Sunday bill is nothing at all but the principle of downright Socialism.

There is a point right here that is worthy of the serious consideration of the working-men. These Sunday-law workers profess great sympathy for the laboring men in their struggle with the grinding monopolies, and by Sunday laws they propose to deliver the working-men from the power of these monopolies. . But in the place of all these other monopolies, they propose to establish a *monopoly of religion*, and to have the Government secure them in the perpetual enjoyment of it. They may talk as much as they please about the grasping, grinding greed of the many kinds of monopolies, and there is truth in it ; but of all monopolies, the most greedy, the most grinding, the most oppressive, the most conscienceless the world ever saw or ever can see, is a religious monopoly. When these managers of religious legislation have delivered the working-men from the other monopolies—granting that they can do it—then the important question is, Who will deliver the working-men from the religious monopoly?

Senator Blair.—Abolish the law of rest, take it away from the working people, and leave corporations and saloon keepers and everybody at perfect liberty to destroy that twenty-four hours of rest, and lawgivers and law-makers will find out whether or not the people want it, and whether they want those law-makers.

Mr. Jones.—There are plenty of ways to help the working-men without establishing a religious monopoly, and enforcing religious observance upon all. There is another point that comes in right here. Those who are asking for the law and those who work for it, are those who compel the people to work on Sunday. In the Illinois State Sunday convention in Chicago last month, it was stated in the first speech made in the convention, "We remember how that the working-men are compelled to desecrate the Sabbath by the great corpora-

tions." The very next sentence was, "We remember also that the stockholders, the owners of these railroads, are members of the churches, that they sit in the pews and bow their heads in the house of God on the Sabbath day."

Senator Blair. — That is only saying that there are hypocrites in this world. What has that to do with this proposed law?

Mr. Jones. — I am coming to that. It has a good deal to do with it. The stockholders who own the railroads act in this way, those men said; and it was stated by a minister in that convention that a railroad president told him that there were more petitions for Sunday trains from preachers than from any other class.

Senator Blair. — There are a lot of hypocrites among the preachers, then.

Mr. Jones. — Precisely; although you yourself have said it. I confess I have not the heart to dispute it.

Senator Blair. — I do not find any fault with that statement. If it is true, it does not touch this question.

Mr. Jones. — If these preachers and church members will not keep the Sabbath in obedience to what they say is the commandment of God, will they keep it in obedience to the command of the State?

Senator Blair. — Certainly the hard working man needs rest; the preachers, church members, and millionaires may do as they please: the bill comes in here and says that the national government, taking part of the jurisdiction of the civil government of the United States by a concession made by the States, by virtue of its control of interstate commerce, and the post-office business, and the army and navy, will take advantage of what the States have given to the general Government in the way of jurisdiction, and will not introduce practices which destroy the Sabbath in the States. That is the object of this legislation. That is all that is under-

taken here. It is simply an act proposing to make efficient the Sunday-rest laws of the State, and nothing else.

Mr. Jones.—But those laws are to be enforced, if at all, by those who are so strongly in favor of them.

Senator Blair.—No, by the State. If these people were in favor of them, or not in favor of them, or violated them, that is another thing. A man may be for a law which he violates. A great many of the strongest temperance people in the world use intoxicating liquors. They say that they realize the evil, and that they are in favor of the enactment of law which will extirpate those evils. The strongest advocates I have ever seen of temperance legislation are men who have come to realize that the grave is just ahead of them. They cannot get rid of the appetite, but they pray the Government for legislation that will save the boys.

Mr. Jones.—That is all right. I am in favor of prohibition straight ; but not Sunday prohibition.

Senator Blair.—You cannot adduce a man's practice as a reply to the argument on a question that touches the public good. It does not vitiate a man's principle because he fails to live up to it himself.

Mr. Jones.—But the secret of the whole matter is this: As an argument for the Sunday law, these men assert that the great railroad corporations desecrate the Sabbath, and by persistently running Sunday trains, also compel the railroad men to work and to desecrate the day. They at the same time assert that the men who own the railroads belong to the churches. If, then, the railroads compel their men to desecrate the day, and the owners of the railroads are church members, then who is it but the church members that are compelling people to desecrate the day ?

Further than this, they quoted at Chicago the statement of a railroad president, that the roads "get more

requests for Sunday trains signed by preachers" than they do from other people. But as the church members own the railroads, and the preachers request them to run Sunday trains, then who is to blame for the "desecration" of the day but the preachers and their own church members? Can't the preachers stop asking for Sunday trains without being compelled to do so by the civil law? In the Chicago convention last month—November 20, 21—Dr. Knowles, who is secretary of this National Sunday-law Union, said that by the influence of William E. Dodge, even after his death, the Delaware & Lackawanna Railroad Company had resisted the temptation to run trains on Sunday until the present year. But five hundred ministers met in conference in New York and used competing lines on Sunday, and by this the hands of the Sunday observance committee have been tied ever since. After that, when the Delaware & Lackawanna directors were asked not to run Sunday trains, they replied,—

"How can you come to us pleading for us to run no trains on Sunday, when your preachers by the hundreds on Sunday use our rival lines, which do run on Sunday. If your preachers ride on Sunday trains on other roads, we cannot see why they and other people cannot ride on our trains on Sunday. And if it is all right for these other roads to run trains on Sunday,—and certainly ministers of the gospel would not ride on them if it were wrong,—then we cannot see how it can be such a great wrong for us to run Sunday trains."

That is a very proper answer. No wonder the Sunday committee's hands are tied by it. And yet that very conference of five hundred preachers, assembled in New York last summer, took the first decided step toward the organization of the National Sunday Association, of which Dr. Knowles himself is secretary.

By these facts there is presented the following con-

dition of things: (1.) Church members own the railroads; (2.) Preachers sign requests for Sunday trains; (3.) The church members grant the request of the preachers for Sunday trains, and the preachers ride on the Sunday trains, and other church members go on Sunday excursions; (4.) Then the whole company—preachers and church members—together petition Congress and the State legislatures to make a law stopping all Sunday trains! That is to say, they want the legislatures, State and national, to compel their own railroad-owning church members not to grant the request of the preachers for Sunday trains. In other words, they want the civil power to compel them all—preachers and church members—to act as they all say that Christians ought to act. And they insist upon quoting all the time the commandment of God, “Remember the Sabbath day to keep it holy.” But if they will not obey the commandment of God, which they themselves acknowledge and quote, what assurance have we that they will obey the law of Congress or State legislature when they get it, especially as it will rest entirely with themselves to see that the law is enforced? Will they compel themselves by civil law to do what they themselves will not otherwise do? The sum of this whole matter is that they want the civil power to enforce church discipline; and that not only upon themselves, but upon everybody else. The whole system, and all the pretensions upon which this Sunday law is demanded, are crooked.

As to the enforcement of the law, it will fall to those who are working to get it; because certainly those who do not want it will not enforce it, and the officers of the law are not given to the enforcement of laws which are not supported by public opinion. This is proved by the fact that the State of Illinois and the city of Chicago now have Sunday laws that ought to satisfy any reason-

able person, and yet not one of them is enforced. And the preachers of that city and State, instead of seeing that these are enforced, call convention after convention to work up more Sunday laws, both State and national.

What, then, is the next intention? — It is to make it a political question in both State and nation, and make the enactment and enforcement of Sunday laws the price of votes and political support. This is proved by the following resolutions adopted by the Elgin Sunday-law convention : —

“Resolved, That we look with shame and sorrow on the non-observance of the Sabbath by many Christian people, in that the custom prevails with them of purchasing Sabbath newspapers, engaging in and patronizing Sabbath business and travel, and in many instances giving themselves to pleasure and self-indulgence, setting aside by neglect and indifference the great duties and privileges which God’s day brings them.

“Resolved, That we give our votes and support to those candidates or political officers who will pledge themselves to vote for the enactment and enforcing of statutes in favor of the civil Sabbath.”

Such a resolution as this last may work in Illinois, though it is doubtful, but with their own statement made in that convention, it is certain that this resolution can never work under the Constitution of the United States. They stated in the convention that the Sabbath is “the test of all religion.” To demand that candidates or political officers shall pledge themselves to vote for the enactment and enforcement of statutes in favor of the Sabbath is, therefore, to require a religious test as a qualification for office. The national Constitution declares that “no religious test shall ever be required as a qualification to any office or public trust under this Government ;” consequently, no Sabbath or Sunday-law test can ever be applied to any candidate for any national office or public trust.

It is true they use the word *civil* in the resolution, but that corresponds with much of their other work. There is not, and there cannot be, any such thing as a *civil* Sabbath. The Sabbath is religious wholly, and they know it; and in all their discussion of this resolution and the subject generally in the convention, it was as a religious institution, and that only.

Senator Blair.—Is there any other point you would wish to present?

Mr. Jones.—There is another point, and that is, that we will be sufferers under such a law when it is passed. They propose to put in an exemption clause. Some of them favor an exemption clause, but it would not in the least degree check our opposition to the law if forty exemption clauses were put in, unless, indeed, they should insert a clause exempting *everybody* who does not want to keep it. In that case, we might not object so much.

Senator Blair.—You care not whether it is put in or not?

Mr. Jones.—There is no right whatever in the legislation; and we will never accept an exemption clause as an equivalent to our opposition to the law. It is not to obtain relief for ourselves that we oppose the law. It is the principle of the whole subject of the legislation to which we object; and an exemption clause would not modify our objection in the least.

Senator Blair.—You differ from Dr. Lewis?

Mr. Jones.—Yes, sir, we will never accept an exemption clause, as tending in the least to modify our opposition to the law. We as firmly and as fully deny the right of the State to legislate upon the subject with an exemption clause as without.

Senator Blair.—There are three times as many of you as of his denomination?

Mr. Jones. — Yes, sir ; there are nearly thirty thousand of us, and we ask for no exemption clause. We stand wholly upon the principle of the question. There should be no exemption from a just law. If the law is right, it is wrong to exempt.

In 1887 Mrs. Bateham herself wrote and printed a "Letter to Seventh-day Believers," proposing in substance that if we would help them to secure a Sunday law, they would exempt us from its penalties. We replied then as we reply now and always. We will not help you to put upon others what we would not have put upon ourselves.

Senator Blair. — You object to it ?

Mr. Jones. — We object to the whole principle of the proposed legislation. We go to the root of the matter, and deny the right of Congress to enact it.

Senator Blair. — You say that the proposed exemption does not make it any better ?

Mr. Jones. — Not a bit ; because if the rightfulness of the legislation be admitted, then we admit that it is the right of a majority to say that such and such a day shall be the Sabbath or the Lord's day, and that it shall be kept. The majorities change in civil government ; the majority may change within a few years, — may change, in fact, at any election, — and then the people may say that the day which we believe should be kept must be observed, or they may say that this day shall not be kept. If we admit the propriety of the legislation, we must also admit the propriety of the legislation to the effect that a certain day shall not be kept, and it makes every man's observance of Sunday, or otherwise, simply the football of majorities. That has been the course of religious legislation from the formation of the papacy onward, and that is the end of religious legislation of all kinds everywhere.

Senator Blair. — Do you not think there is a distinction between a majority in a monarchical government, and a majority in a republican government? In a monarchical government the majority is simply one man who has power.

Mr. Jones. — But in a republic when you throw this subject into civil affairs, it makes a great deal of difference. Why, sir, we would object to the passage of a law enforcing the observance of the day which we keep, and to accept an exemption clause would only be to contradict ourselves. Allow me to illustrate this: There was a time when we did not keep the seventh day as the Sabbath. While we did not keep it, we had the right not to keep it. We became convinced that we ought to keep it; and we are now doing so. We have the right to keep it. More than this, we have the right again not to keep it if we choose not to keep it. But if, while keeping it, we should consent to the State's assumption of power to compel us to do that which we have the right to omit if we please, we would therein resign our freedom of religious faith and worship. If these people would only *think* on this question, they would see that they themselves cannot afford to consent to this legislation, much less demand it. No man can ever safely consent to legislation in favor of the form of faith or worship which he himself professes. In so doing he resigns his right to profess some other form of faith if he should become convinced that that other form is nearer the truth than his own. He virtually resigns his right to think any further on the subject of religious observances, and must thenceforth accept them ready made from the legislative power; that is, as the majority may dictate. The Sunday observers may thus give away their religious liberty if they choose; but as for us, we do not propose to do it. We are going to assert and maintain our rights. And when these give theirs

away, we are going to assert their right to re-assert their rights.

Another thing: An exemption clause is only a toleration clause in disguise. For us to accept it would be but to confess that all religious rights are summed up in the majority, and that we are willing to accept from *them* whatever religious liberty *they* think we ought to have. But no such confession, sir, will we ever make. To no such thing will we ever consent or submit. We are Americans, sir, and citizens of the United States, too, and we assert all the rights of American citizens. The vocabulary of American ideas knows no such word as "toleration." It asserts *rights*. As was said by the Senate Committee on this very subject sixty years ago, so say we, —

"What other nations call religious toleration, we call religious rights. They are not exercised by virtue of governmental indulgence, but as rights, of which government cannot deprive any portion of citizens, however small. Despotism may invade those rights, but justice still confirms them."

Nor is this all that there is to be said on this point. There is another principle involved. If we should accept the exemption clause, it would not help the thing. It would be exceedingly short. Suppose an exemption clause were given. There are people who would profess to be Seventh-day Adventists for the express purpose of getting a chance to open saloons or houses of business on Sunday. Therefore in outright self-defense, the majority would have to repeal the exemption clause.

Senator Blair. — Call Mrs. Bateham's attention to that.

Mr. Jones. — Let me repeat it. If you give an exemption clause — it has been tried — there are reprehensible men, saloon keepers, who know they will get more traffic on Sunday than they can on Saturday, and

they will profess to be Seventh-day Adventists, they will profess to be Sabbath keepers. You cannot "go behind the returns," you cannot look into the heart, you cannot investigate the intention, to see whether they are genuine in their profession or not. They will profess to be Sabbath keepers, and then they will open their saloons on Sunday. Then in outright self-defense, to make your position effective, you will have to repeal that exemption clause. It will last but a little while.

Senator Blair. — I agree with you there.

Mr. Jones. — For that reason these people cannot afford to offer an exemption clause ; and for the reason that it puts the majority in the power of our conscience, we deny the right to do anything of the kind. I ask the organizations represented here to think of this after this hearing is over. It will bear all the investigation they choose to give it.

Senator Blair. — I should like to call everybody's attention to the point. If you need any legislation of this kind, you would better ask for legislation to carry out your purposes, and be careful that in the effort to get the assistance of the parties against you, you do not throw away the pith and substance of all for which you ask.

Mr. Jones. — Yes, sir, that is the point. To show the workings of this principle, I will state that Arkansas in 1885 had an exemption clause in its Sunday law. That exemption clause, it was claimed, was taken advantage of by saloon keepers to keep open on Sunday. A delegation went to the legislature of Arkansas, and asked them to repeal the exemption clause, so that they could shut the saloons on Sunday. The legislature did it. If they had shut the saloons on Sunday, that would have been all well enough. But they did not even try it. There was not a saloon keeper arrested under that repealed law ; there were only two men not keeping the

seventh day, who were arrested under it; there was not a man who did not keep the seventh day fined under it; but there were Seventh-day Baptists and some Seventh-day Adventists, poor almost as Job's turkey, who were prosecuted and fined. One man had his only horse taken from him, and his cow, and at last his brethren contributed money to save him from jail. Such men were prosecuted time and again; and the lawyers of the State, under the leadership of Senator Crockett, succeeded in carrying through the legislature, against the persistent opposition of the church managers, a bill restoring the exemption clause, to save these poor, innocent people from the persecution that was being carried on.*

Senator Blair. — I am glad you put in that fact, because it is something that happened.

Mr. Jones. — I ask leave to read the statement made in the Arkansas Legislature by Senator Crockett, upon that very subject: —

“Let me, sir, illustrate the operation of the present law by one or two examples. A Mr. Swearigen came from a Northern State and settled on a farm in — County. His farm was four miles from town, and far away from any house of religious worship. He was a member of the Seventh-day Adventist Church, and, after having sacredly observed the Sabbath of his people (Saturday) by abstaining from all secular work, he and his son, a lad of seventeen, on the first day of the week went quietly about their usual avocations. They disturbed no one — interfered with the rights of no one. But they were observed, and reported to the Grand Jury, indicted, arrested, tried, convicted, fined, and having no

* Yet in the very next legislature, that of 1889, the church managers tried their best again to repeal the exemption clause. It was then discovered that they had elected men to the legislature pledged to repeal the exemption clause. The bill passed the Senate, but was killed in the House. This proves my position, that there is no liberty in an exemption clause.

money to pay the fine, these moral, Christian citizens of Arkansas were dragged to the county jail and imprisoned like felons for twenty-five days—and for what?—For daring, in this so-called land of liberty, in the year of our Lord 1887, to worship God.

“Was this the end of the story?—Alas, no, sir! They were turned out; and the old man’s only horse, his sole reliance to make bread for his children, was levied on to pay the fine and costs, amounting to thirty-eight dollars. The horse sold at auction for twenty-seven dollars. A few days afterward the sheriff came again, and demanded thirty-six dollars, eleven dollars balance due on fine and costs, and twenty-five dollars for board for himself and son while in jail. And when the poor old man—a Christian, mind you—told him with tears that he had no money, he promptly levied on his only cow, but was persuaded to accept bond, and the amount was paid by contributions from his friends of the same faith. Sir, my heart swells to bursting with indignation as I repeat to you the infamous story.

“Another, and I am done. Sir, I beg you and these senators to believe that these are neither fancy nor exaggerated sketches. Five years ago a young man, newly married, came to——County from Ohio. He and his wife were Seventh-day Baptists. The young girl had left father and mother, brothers and sisters, and all the dear friends of her childhood, to follow her young husband to Arkansas—to them the land of promise. The light of love sparkled in her bright young eyes. The roses of health were upon her cheeks, and her silvery laugh was sweet music, of which her young husband never wearied. They purchased a little farm, and soon by tireless industry and frugal thrift, their home blossomed like a rose in the wilderness. After awhile a fair young babe came to them to brighten the sunshine, and sweeten the bird songs. They were happy in each other’s affection and their love for the little one. For them ‘all things worked together for good;’ for in their humble, trusting way, they worshiped God and loved their fellow-men.

“Two years ago the law under which their prosperity and happiness had had its growth was repealed!

Accursed be the day which brought such a foul blot upon our State's fair fame ! A change, sudden, cold, and blasting as an Arctic storm, came over their lives, and pitilessly withered all their bright flowers of hope. Under this repeal, persecution lifted its ugly, venomous head. The hero of my sad story was observed by an envious, jealous neighbor, quietly working, as he believed God had commanded him, on Sunday. He was reported to that Inquisitorial relic of barbarism, the Grand Jury, indicted, tried, convicted, and thrown into jail because his conscience would not let him pay the fine.

"Week after week dragged its slow length along. Day after day the young wife, with baby in her arms, watched at the gate for his coming, and, like Tennyson's Marianna —

" ' She only said : " My life is dreary —
He cometh not," she said.

She said : " I am aweary — aweary —
I would that I were dead. " ' "

"Then baby sickened and died ; the light in the young wife's eyes faded out in tears ; her silvery laugh changed to low, wailing sobs. Pale-faced Misery snatched the roses from her cheeks, and planted in their stead her own pallid hue. Sir, how can I go on ? At length the cruel law was appeased, and this inoffensive citizen (except that he had loved God and sought to obey him) was released from prison, and dragged his weary feet to the happy home he had left a few short weeks before. He met his neighbors at the gate bearing a coffin. He asked no questions, his heart told him all. No, not all ! He knew not — he could never know — of her lonely hours, of her bitter tears, of the weary watching and waiting, of the appeals to God, — that God for whom she had suffered so much, — for help in the hour of her extremity, of baby's sickness and death. He could not know of these. But he went with them to the quiet country burial-place, and saw beside the open grave a little mound with dirt freshly heaped upon it, and then he knew that God had taken both his heart's idols, and he was left alone. His grief was too deep for tears. With staring eyes, he saw them lower the body of his young

wife into the grave. He heard the clods rattle upon the coffin, and it seemed as if they were falling upon his heart. The work was done, and they left him with his dead; and then he threw himself down between the graves, with an arm across each little mound, and the tears came in torrents, and kept his heart from breaking. And then he sobbed his broken farewell to his darlings, and left Arkansas forever, — left it, sir, as hundreds of others are preparing to leave, if this General Assembly fails to restore to them the protection of their rights under the Constitution, national and State.

“On next Monday, at Malvern, six as honest, good, and virtuous citizens as live in Arkansas, are to be tried as criminals for daring to worship God in accordance with the dictates of their own consciences; for exercising a right which this Government, under the Constitution, has no power to abridge. Sir, I plead, in the name of justice, in the name of our republican institutions, in the name of these inoffensive, God-fearing, God-serving people, our fellow-citizens, and last, sir, in the name of Arkansas, I plead that this bill may pass, and this one foul blot be wiped from the escutcheon of our glorious commonwealth.”

Arkansas was not alone in this, however, though it was worse there than anywhere else. I myself, with other brethren in California, had to send hundreds of dollars into Tennessee, to support the families of the brethren of our own faith there, while the husbands and fathers who made the money for their support were in jail because they chose to work for their families on Sunday, and make bread for them after having kept the Sabbath according to their conscience. That has been done, Mr. Chairman, in these United States. That is the care these people have for the laboring man.

Senator Blair. — You reason from that that there should be no Sunday law whatever?

Mr. Jones. — If you allow a Sunday law, you must allow it to any extent. It must be enforced. All they

did in Arkansas was to enforce the law, simply as in the Roman empire they enforced the law, and put Christians to death. They simply enforced the law, but the law was wrong. Any condition of the law that will allow such things as that is a wrong condition of the law.

Senator Blair.— This bill proposes that work must not be done to the disturbance of others. This work was done to the disturbance of others.

Mr. Jones.— I know that this bill for a national Sunday law proposes that work must not be done “to the disturbance of others,” and in that very phrase lies one of its worst features. The bill declares that no person shall do any work, or “engage in any play, game, or amusement, or recreation, to the disturbance of others, on the first day of the week, commonly known as the Lord’s day, or during any part thereof.” This leaves it entirely with the other man to say whether that which I do disturbs him ; and that is only to make every man’s action on Sunday subject to the whim or caprice of his neighbor. And everybody knows that it requires a very slight thing to disturb one who has a spite or prejudice against you. At the Illinois State Sunday-law convention last month (Nov. 20, 21), Dr. R. O. Post, of Springfield, made a speech on the subject of “Sunday Recreation,” in which he declared as the sum of his whole speech that, —

“There is no kind of recreation that is proper or profitable on Sunday, outside of the home or the sanctuary.”

Only let such a law as is embodied in this bill become of force where R. O. Post, D. D., is, and any kind of recreation outside of the home or the sanctuary would be sure to disturb him, and the one engaged in the recreation could be arrested and prosecuted. But it may be argued that no judge or jury would uphold any such prosecution. That is not at all certain, as we shall

yet see ; but whether or not it is so, it is certain that if your neighbor should say that what you did disturbed him, under such a law as that he could have you arrested, and put to the inconvenience and expense of defending yourself before the court. In 1887, the city of San Francisco, Cal., had an ordinance on another subject that embodied the very principle of this clause of this Sunday bill. It reads thus :—

“No person shall in any place indulge in conduct having a tendency to annoy persons passing or being upon the public highway, or upon adjacent premises.”

It is easy to see that the principle of this ordinance is identical with that of the clause in the first section of this bill, which forbids anything “to the disturbance of others.”

While that San Francisco ordinance was in force, a man by the name of Ferdinand Pape was distributing some circulars on the street, which not only had a tendency to annoy, but actually “annoyed” a business man across the street. Pape was arrested. He applied to the Superior Court for a writ of *habeas corpus*, claiming that the offense charged against him did not constitute a crime, and that the ordinance making such action an offense was invalid and void, because it was unreasonable and uncertain. The report of the case says :—

“The writ was made returnable before Judge Sullivan, and argued by Henry Hutton in behalf of the imprisoned offender. Disposing of the question, the Judge gave quite a lengthy written opinion, in which he passed a somewhat severe criticism upon the absurdity of the contested ordinance, and discharged Pape from custody. Said the Judge :—

“ ‘ If the order be law, enforceable by fine and imprisonment, it is a crime to indulge in any conduct, however innocent and harmless in itself, and however unconsciously done, which has a tendency to annoy other

persons. . . . Instances might be multiplied indefinitely in which the most harmless and inoffensive conduct has a tendency to annoy others. If the language of the ordinance defines a criminal offense, it sets a very severe penalty of liberty and property upon conduct lacking in the essential element of criminality.

“ ‘ But it may be said that courts and juries will not use the instrumentality of this language to set the seal of condemnation on unoffending citizens, and to unjustly deprive them of their liberty and brand them as criminals. The law countenances no such dangerous doctrine, countenances no principle so subversive of liberty, as that the life or liberty of a subject should be made to depend upon the whim or caprice of judge or jury, by exercising a discretion in determining that certain conduct does or does not come within the inhibition of a criminal action. The law should be engraved so plainly and distinctly on the legislative tables that it can be discerned alike by all subjects of the commonwealth, whether judge upon the bench, juror in the box, or prisoner at the bar. Any condition of the law which allows the test of criminality to depend on the whim or caprice of judge or juror, savors of tyranny. The language employed is broad enough to cover conduct which is clearly within the Constitutional rights of the citizen. It designates no border-line which divides the criminal from the non-criminal conduct. Its terms are too vague and uncertain to lay down a rule of conduct. In my judgment, the portion of the ordinance here involved is uncertain and unreasonable.’ ”

This decision applies with full force to this proposed national Sunday law. Under this law, all that would be necessary to subject any person to a criminal prosecution, would be for him to engage in any sort of play, game, amusement, or recreation on Sunday ; because the National Reformers are as much in favor of this Sunday law as is anybody else, and there are many of those rigid National Reformers who would be very much “ disturbed ” by any amusement or recreation indulged in on

Sunday, however innocent it might be in itself. And it is left entirely to the whim or caprice of the "disturbed" one, or of the judge or jury, to say whether the action really has or has not disturbed him.

The California decision is, that such a statute "sets a very severe penalty of liberty and property upon conduct lacking in the essential element of criminality." California courts "countenance no such dangerous doctrine, countenance no principle so subversive of liberty," or which so "savors of tyranny," as that which is embodied in these words of this Sunday bill.

Nor is this confined to this particular section; the same principle is found in Section 5. This section provides that if any person works for any other person on Sunday, and receives payment for it at any time, then any person in the wide world, except the parties concerned, can enter suit, and recover the money so paid. If you work for me on Sunday, and I pay you for it, then the first man that finds it out can sue you and get the money. That is what the bill says. When wages are paid for Sunday work, "whether in advance or otherwise, the same may be recovered back by *whoever* shall *first* sue for the same." *Whoever* is a universal term. Therefore, this bill deliberately proposes that when any man who is subject to the exclusive jurisdiction of the United States, receives payment for work done on Sunday, except for work of necessity or mercy, he may be sued for that money by whoever first learns that he has received it, and that person shall get the money.

So much for this bill as it reads. Now, as to the work for which the Seventh-day observers of Arkansas were prosecuted. It was not to the disturbance of others. Let me state some of the facts, the authentic record of which I have, but it is too voluminous to present in detail.

With two exceptions, all the arrests and prosecutions were of people who observed the seventh day of the week as the Sabbath. And in these two exceptions, those who were held for trial were held without bail, — simply on their own recognizance, — and although the testimony was direct and positive, the jury “agreed to disagree,” and the cases were both dismissed; while in every case of a Seventh-day Adventist, the least bail that was accepted was \$110; the most of them were held under bonds for \$250, and some for as high as \$500. There was not a single case dismissed, and in all the cases the complaint was never made that what was done had disturbed the worship or the rest of any one. But the indictments were all for the crime of “Sabbath-breaking” by the performance of labor on Sunday.

The statute of Arkansas at that time ran thus: —

“SECTION 1883. Every person who shall on the Sabbath, or Sunday, be found laboring, or shall compel his apprentice or servant to labor or perform service other than customary household duties of daily necessity, comfort, or charity, on conviction thereof shall be fined one dollar for each separate offense.

“SEC. 1884. Every apprentice or servant compelled to labor on Sunday shall be deemed a separate offense of the master.

“SEC. 1885. The provision of this act shall not apply to steamboats and other vessels navigating the waters of the State, nor such manufacturing establishments as require to be kept in continual operation.”

In the case of Mr. Swearingen, mentioned by Senator Crockett, the conviction was upon the testimony of a witness who swore that the work for which he was convicted was done on a day which proved to be *seventeen days before the law was enacted*, thus by its enforcement making the law *ex post facto*. The Constitution of the United States forbids the making of *ex post facto* laws. But when a law not being *ex post facto* in itself,

is made so by its enforcement, it is time that something was being done to enlighten courts and juries upon that subject, even though it should be by an amendment to the Constitution of the United States, providing that no law not being *ex post facto* in itself shall be made so by its enforcement. Then, on the other hand, several cases were tried, and the men convicted and fined *after the law was repealed*, though for work done before.

In almost every case the informer, the prosecuting witness, or perhaps both, were men who were doing work or business on the same day, and sometimes with the very persons accused; yet the man who kept the seventh day was convicted in every instance, while the man who did not keep the seventh day, but did work or business with the man who did, was left entirely unmolested, and his evidence was accepted in Court to convict the other man. I give some instances:—

First, a man by the name of Millard Courtney, who was the prosecuting witness against two men, Armstrong and Elmore, had taken a man with him to where these men were working, and there they made a contract for roofing a school-house; and yet Courtney's evidence convicted these two men of Sabbath-breaking at the very time he was doing business with them.

Second, J. L. Shockey was convicted upon the testimony of a man by the name of Hammond, who went to him on Sunday where he was at work, and bargained with him for a Plymouth Rock rooster.

Third, J. L. James, who worked in the rain for nothing on Sunday that a poor widow, a member of another church, might be sheltered, was convicted of Sabbath breaking upon the evidence of a man who carried wood and chopped it up that same day within seven rods of the man who was convicted by his testimony.

Fourth, one La Fever and his wife went to Allen Meeks's house on Sunday to visit. They found Meeks

planting potatoes. Meeks stopped planting potatoes, and spent the rest of the day visiting with them; and yet Meeks was convicted of Sabbath-breaking and fined upon the evidence of La Fever.

Fifth, the second case of Mr. Meeks. Riley Warren went to his house on Sunday, to see him about hiring a teacher for the public school. In the social, neighborly conversation that passed between them, Meeks incidentally mentioned that he had mended his wagon-brake that morning; and yet he was convicted of Sabbath-breaking upon the evidence of that same Riley Warren. Meeks was thus virtually compelled to be a witness against himself,—clearly another violation of both the State and United States Constitution.

Sixth, Mr. Reeves's boys were hauling wood on Sunday. In the timber where they got the wood, they met another boy, a Seventh-day Adventist, John A. Meeks, hunting squirrels. They joined him in the hunt, scaring the squirrels around the trees so he could shoot them. Then the squirrels were divided between the Meeks boy and the Reeves boys. Then the Meeks boy was indicted, prosecuted, and convicted of Sabbath-breaking upon the evidence of the father of those boys who were hauling wood, and who helped to kill the squirrels.

Seventh, James M. Pool, for hoeing in his garden on Sunday, was convicted of Sabbath-breaking, on the evidence of a "sanctified" church member who had gone to Pool's house on Sunday to buy tobacco.

Allow me to mention the methods of prosecution. In the case of Scoles, J. A. Armstrong was called before the Grand Jury. After repeated answers to questions in regard to work done on Sunday by different parties in several different lines of business and traffic, he was asked the direct question whether he knew of any Seventh-day Adventists who worked on

Sunday, and when in the nature of the case he answered in the affirmative, every one of the Seventh-day Adventists whom he named was indicted, and not one of any other class or trade.

In the second case of James A. Armstrong ; he was arrested at the instance of the mayor. When asked for the affidavit upon which Armstrong was arrested, the mayor said that A. J. Vaughn had called his attention to Armstrong's working, and had said, "Now see that you do your duty," yet Vaughn testified under oath that he did not see Armstrong at all on the day referred to. Armstrong was not only arrested at the instance of the mayor, but he was also tried before the mayor, who acted as Justice of the Peace. And when Vaughn testified that he had not seen Armstrong at all on the day referred to, this made the mayor, virtually, both prosecuting witness and judge ; and the questions which he asked show that that was precisely his position, and his own view of the case. The question which he asked to each of the first two witnesses was, "What do you know about Mr. Armstrong's working on Sunday, June 27?" This question assumes all that was expected to be proved on the trial.

This is enough to show the workings of such a Sunday law as is embodied in this Senate bill. There were many other cases, every one in the same line. But throughout the whole list of cases, it is only the record of how people who were performing honest labor on their own premises in a way in which it was impossible to do harm to any soul on earth, were indicted, prosecuted, and convicted upon the evidence of men who, if there were any wrong involved in the case at all, were more guilty than they. If religious persecution could possibly be more clearly demonstrated than it is in this thing, we hope never to see an illustration of it.

It may be asked, Why was not an appeal taken? An appeal was taken to the Supreme Court of the

State, in the first case that was tried. The judgment of the lower Court was confirmed in an opinion closing with these words : —

“The appellant’s argument, then, is reduced to this : That because he conscientiously believes he is permitted by the law of God to labor on Sunday, he may violate with impunity the statute declaring it illegal to do so ; but a man’s religious belief cannot be accepted as a justification for his committing an overt act made criminal by the law of the land. If the law operates harshly, as laws sometimes do, the remedy is in the hands of the legislature. It is not the province of the judiciary to pass upon the wisdom or policy of legislation. That is for the members of the legislative department ; and the only appeal from their determination is to the constituency.”

This decision of the Supreme Court is of the same piece with the prosecutions and judicial processes throughout. It gives to the legislature all the omnipotence of the British Parliament, and in that does away with all necessity for a Constitution. The decision on this principle alone, is un-American. No legislative body in this country is framed upon the model of the British Parliament in respect to power. In this country, the powers of every legislature are defined and limited by Constitutions. It is the prerogative of Supreme Courts to define the meaning of the Constitution, and to decide whether an act of the legislature is Constitutional or not. If the act is Constitutional, then it must stand, whatever the results may be. And the Supreme Court is the body by which the Constitutionality or the unconstitutionality of any statute is to be discovered. But if, as this decision declares, the legislature is omnipotent, and that which it does must stand as law, then there is no use for a Constitution. “One of the objects for which the judiciary department is established, is the protection of the Constitutional rights of the citizens.”

So long as there is a Constitution above the legislature, which defines and limits its powers, and protects and guards the rights of the citizens, so long it is the province of the Supreme Court to pronounce upon the acts of the legislature. The Supreme Court of Arkansas, therefore, in this case, clearly abdicated one of the very functions for which it was created, or else subverted the Constitution of Arkansas ; and in either case, bestowed upon the legislature the omnipotence of the British Parliament, which is contrary to every principle of American institutions. Nor is the State of Arkansas an exception in this case ; for this is the usual procedure of Supreme Courts in sustaining Sunday laws. They cannot be sustained upon any American principle ; resort has to be made in every instance, and has been with scarcely an exception, either to the church-and-state principles of the British Government, or to the British principle of the omnipotence of the legislative power. But American principles are far above and far in advance of the principles of the British Government, in that they recognize Constitutional limitations upon the legislative power, and countenance no union of church and state ; consequently Sunday laws never have been, and never can be, sustained upon American principles.

That this stricture upon the Supreme Court of Arkansas is not unjust, we have the clearest proof. The three judges who then composed the Supreme Court, were all members of the Bar Association of the State of Arkansas. In less than three months after this decision was rendered, the Bar Association *unanimously* made a report to the State on "law and law reform," an official copy of which I have in my possession. In that report, under the heading "Sunday Laws," is the following :—

"Our statute as it stands in Mansfield's Digest, provides that 'persons who are members of any religious

society who observe as Sabbath any other day of the week than the Christian Sabbath, or Sunday, shall not be subject to the penalties of this act [the Sunday law], so that they observe one day in seven, agreeably to the faith and practice of their church or society.' — *Mans. Dig., sec. 1886.*

"This statute had been in force from the time of the organization of the State government; but it was unfortunately repealed by act of March 3, 1885. — *Acts 1885, p. 37.*

"While the Jews adhere, of course, to the letter of the original command to remember the seventh day of the week, there is also in the State a small but respectable body of Christians who consistently believe that the seventh day is the proper day to be kept sacred; and in the case of *Scoles vs. State*, our Supreme Court was compelled to affirm a judgment against a member of one of these churches, for worshiping God according to the dictates of his own conscience, supported, as he supposed, by good theological arguments. It is very evident that the system now in force, savoring, as it does, very much of religious persecution, is a relic of the Middle Ages, when it was thought that men could be made orthodox by an act of parliament. Even in Massachusetts, where Sabbatarian laws have always been enforced with unusual vigor, exceptions are made in favor of persons who religiously observe any other day in the place of Sunday. We think that the law as it stood in Mansfield's Digest, should be restored, with such an amendment as would prevent the sale of spirits on Sunday, as that was probably the object of repealing the above section."

Now the Arkansas Constitution says: —

"All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any ministry, against his consent. No human authority can, in any case or manner whatsoever, control or interfere with the right of conscience; and no

preference shall ever be given by law to any religious establishment, denomination, or mode of worship, above any other."

This report of the Bar Association says, "In the case of *Scoles vs. State*, our Supreme Court was compelled to affirm a judgment against a member of one of these churches, for worshiping God according to the dictates of his own conscience."

The members of the Supreme Court being members of the Bar Association, in that report it is confessed that they confirmed a judgment against a man for doing that which the Constitution explicitly declares all men have a natural and indefeasible right to do.

Senator Blair.—Then if they had a law like this, they were wrongly convicted under the law, just as innocent men are sometimes hung; but you cannot reason that there should be no law against murder because innocent men are sometimes executed. It is a fault in the administration of the law. You cannot reason from that that there should be no law.

Mr. Jones.—If there had been arrests of other people for working on Sunday, in anything like the numbers that there were of seventh-day observers, and the law had been enforced upon all alike, then the iniquity would not have been so apparent; or if those who were not seventh-day observers, and who were arrested, had been convicted, even then the case would not have been so clearly one of persecution. But when in all the record of the whole two years' existence of the law in this form, there was not a solitary saloon keeper arrested, there was not a person who did not observe the seventh day arrested, with the two exceptions named, then there could be no clearer demonstration that the law was used only as a means to vent religious spite against a class of citizens guiltless of any crime, but only of professing a religion different from that of the majority.

The fact of the matter is, — and the whole history of these proceedings proves it, — that from beginning to end these prosecutions were only the manifestation of that persecuting, intolerant spirit that will always make itself felt when any class of religionists can control the civil power. The information upon which the indictments were found, was treacherously given, and in the very spirit of the Inquisition. The indictment itself is a travesty of legal form, and a libel upon justice. The principle was more worthy of the Dark Ages than of any civilized nation or modern time; and the Supreme Court decision that confirmed the convictions, is one which is contrary to the first principles of Constitutional law or Constitutional compacts.

And if Congress should lend its sanction to religious legislation to the extent of passing this national Sunday bill, now under consideration, and its principles should be made of force in all the States, the history of Arkansas from 1885-87 would be repeated through the whole extent of the nation. This I can prove, at least so far as the intention goes of those who are actively in favor of it. Rev. D. Mc Allister is one of the principal men of the National Reform Association. That Association and the Woman's Christian Temperance Union held a joint convention at Lakeside, Ohio, in July, 1887; and speaking on the subject of a national Sunday law, Dr. Mc Allister said : —

“Let a man be what he may, — Jew, seventh-day observer of some other denomination, or those who do not believe in the Christian Sabbath, — let the law apply to every one, that there shall be no public desecration of the first day of the week, the Christian Sabbath, the day of rest for the nation. They may hold any other day of the week as sacred, and observe it; but that day which is the one day in seven for the nation at large, let that not be publicly desecrated by any one, by officer

in the Government, or by private citizen, high or low, rich or poor."

Then some one stated from the audience that —

"There is a law in the State of Arkansas enforcing Sunday observance upon the people, and the result has been that many good persons have not only been imprisoned, but have lost their property, and even their lives."

To which Mr. Mc Allister coolly replied : —

"It is better that a few should suffer, than that the whole nation should lose its Sabbath."

This argument is identical with that by which the Pharisees in Christ's day justified themselves in killing him. It was said : —

"It is expedient for us that one man should die for the people, and that the whole nation perish not." John 11 : 50.

And then says the record : —

"Then from that day forth they took counsel together for to put him to death." Verse 53.

It is because of these principles, unblushingly avowed by the very men who stand in the lead in the effort to secure the enactment of this national Sunday law ; and because of the practical effect of such a law in Arkansas and Tennessee, and to some extent in Pennsylvania, — it is because of these things that we say to you, gentlemen of the United States Senate, you cannot afford to give to these men the power which they seek in the enactment of this proposed Sunday law. The speech of Senator Crockett's, which I have read, was made in the legislature of Arkansas, when he was pleading for the restoration of that exemption clause, — when he was pleading for toleration, in fact.

Senator Blair.—Do you know whether this young man had money or friends?

Mr. Jones.—Dr. Lewis, can you certify whether he had money?

Dr. Lewis.—The case was never reported to other churches for relief. I do not know as to his personal estate.

Senator Blair.—Do you not think it was a peculiar man who would allow his child to be killed and his wife to starve?

Dr. Lewis.—The case was not reported to our churches in the North.

Mr. Jones.—About that peculiarity I will say that John Bunyan stayed twelve years in Bedford jail when he could have got out by simply saying the word “yes,” and agreeing that he would not preach.

Senator Blair.—It was a very different thing to be called on to say that he would abstain from the performance of a great duty in his church. He preached the gospel, and he would not agree not to preach the gospel. But here is a man who lets his wife and child die rather than pay twenty-five or fifty dollars and get out, and have an opportunity to go to work for them.

Mr. Jones.—What kind of law is that which puts a man upon his conscience to choose between his wife and child and paying a fine of twenty-five or fifty dollars? But suppose he had paid the fine, and got out and gone to work again, how long could he have worked? When the next Sunday came round, it was his duty to his wife and child to work for their support. Is he to go to work on Sunday, and go through the course of prosecution again, and again pay a fine of twenty-five or fifty dollars? How long could this be kept up? There are not many poor farmers who can clear from twenty-five to fifty dollars every week above all expenses, to be devoted to paying regular fines for the privilege of fol-

lowing their honest occupation on their own premises. But it will be said, "Let him not work on Sunday, then he would not have to pay a fine." Well, if he consents to do no work on Sunday, he consents to be robbed of one-sixth of his time, which he honestly owes to the support of his wife and child. For to rob him of one-sixth of his time is precisely what the State does in such a case ; and it is either confiscation outright, or confiscation under the guise of a fine imposed as punishment for his refusing to allow himself to be robbed of one-sixth of his time. Either this, or else he must give up his right to worship God according to the dictates of his own conscience and the word of God, and so surrender his rights of conscience altogether. It comes to this, therefore, that Sunday laws are a direct invasion of the rights of conscience.

More than this, Sunday laws are a direct invasion not only of the Constitutional right, but the inalienable right, of acquiring, possessing, and protecting property. I here adopt the language of the Supreme Court of California,—language which can never be successfully controverted :—

"The right to protect and possess property is not more clearly protected by the Constitution than the right to acquire. The right to acquire must include the right to use the proper means to attain the end. The right itself would be impotent without the power to use the necessary incidents. If the legislature have the authority to appoint a time of compulsory rest, . . . it is without limit, and may extend to the prohibition of all occupations at all times. . . . For the Constitution to declare a right inalienable and at the same time leave the legislature unlimited power over it, would be a contradiction in terms, an idle provision, proving that a Constitution was a mere parchment barrier, insufficient to protect the citizen, delusive and visionary, and the practical result of which would be to destroy,

not conserve, the rights which they may assume to protect. The legislature, therefore, cannot prohibit the proper use of the means of acquiring property, except the peace and safety of the State require it." — *Ex parte Newman, 9 Cal., pp. 517, 510.*

But does the peace and safety of the State require it in any such case as is here involved? Can it ever be against the peace and safety of the State for any man to follow his honest, legitimate, and even laudable occupations? It is against the peace and safety of the State to *prohibit* it. For, as I have before conclusively proved, for the State to do so is for it to put honest occupations in the catalogue of crimes; to put peaceable and industrious citizens upon a level with criminals; and to put a premium upon idleness and recklessness. It is certainly against the peace and safety of any State to do any such thing. Therefore it is demonstrated that Sunday laws are an invasion of the inalienable right of acquiring and possessing property, and for that man in Arkansas to have obeyed that law, would have been to surrender his inalienable right.

Once more: As the right to acquire property includes the right to use the proper means to attain that end, and as such a law deprives a man of the use of such means during one-sixth of his time, it follows that it is a violation of that provision of the Fourteenth Amendment of the United States Constitution, which declares that "no State shall deprive any citizen of life, liberty, or property, without due process of law."

All this, sir, is involved in the question as to whether that man shall recognize the law to such an extent as even to pay the fine. If he does, then it follows inevitably that all his property shall go to pay fines, or else he must choose between yielding his rights of conscience, and allowing one-sixth of his time to be confiscated, and in that a certain proportion of property;

because to the industrious citizen, time is property. But if the State by a Sunday law or by any other means, may confiscate a part, it may confiscate all. Where, then, shall resistance to oppression begin?—I say, At the very first appearance of it. Under cover of the word "*loan*" Charles I. undertook to confiscate a small sum of money from each of the property owners of England. John Hampden's share was about seven dollars and seventy-five cents. He was a rich man, but he refused to pay it; and his refusal to pay that paltry sum led to all England's being plunged into confusion and civil war: the king lost his head, Hampden himself lost his life, and all this rather than to pay the insignificant sum of seven dollars and seventy-five cents!—less than one-third of the fine imposed upon this man for refusing to assent to the confiscation of one-sixth of his property. But John Hampden's refusal to pay that money established the Constitutional principle that every man has the inalienable right to acquire, possess, and protect property—a right which was invaded in this case. Upon this principle alone that man was entirely justified in refusing to pay the fine imposed by that Sunday law. But as there was also involved the inalienable right of conscience, he was doubly justified in refusing to obey the law or to recognize the principle.

Senator Blair.—Suppose he was a guilty man. Suppose he did not believe it was an offense to steal, and that he conscientiously thought that he could take goods from another in a certain way. He had been convicted under the law, and was under the penalty of paying twenty-five dollars' fine. Is he to put his right of conscience against the demands of wife and child, and against the judgment of the community, and the State in which he lives, and to which he owes all the rights to the enjoyment of property, and everything

else he has ? In this case a man saw all this evil done rather than pay twenty-five or fifty dollars, and he says he did that by reason of his conscience:

Mr. Jones. — The cases are not parallel at all, unless indeed you count it as much of a crime for a man to follow his honest occupation as it is for him to steal. This, however, we have demonstrated is the very thing that Sunday laws do. But we forever protest against honest industry's being put upon a level with thieving.

The man who steals takes the property of others without compensation and without regard to the question of right. If, then, the State takes from him property or time without compensation, he cannot complain of injustice. But in the case of the man who works on Sunday, he invades no man's right in any degree ; he takes no man's property or his time in any way, much less does he take it without compensation. For the State to punish the thief, is just. For the State to punish the industrious citizen, is pre-eminently unjust.

But aside from all this, did you ever hear of a man whose conscience taught him that it was right to steal, that it was a conscientious conviction to steal ?

Senator Blair. — I have heard of a great many instances where an individual confessed that he had conscientiously violated the law, yet he was punished.

Mr. Jones. — Precisely ; and the Christians were put to death under the Roman empire for violating the law.

Senator Blair. — But that does not answer my question, and it is not necessary that it should be answered.

Mr. Jones. — It is right for any man to violate any law that invades his Constitutional rights ; and it is his right conscientiously to violate any law that invades the rights of conscience. God declares the man innocent who violates the law that interferes with man's relationship to God — the law that invades the rights of conscience. See cases "The King *vs.* Shadrach, Me-

shach, and Abed-nego ;" and "The State *vs.* Daniel," reported in Daniel, chapters 3 and 6.

The end of the Arkansas case, as reported by Senator Crockett, was that the poor man lost both his wife and his child.

Senator Blair.—What became of him?

Mr. Jones.—He left the State.

Senator Blair.—I should think he ought to leave it.

Mr. Jones.—So do I, sir. But what can be said of freedom any more in this country, when such things can be? That is also true of six other men who followed the dictates of their own consciences,—as good, honest, virtuous citizens as lived in Arkansas.

Senator Blair.—There is a good deal of humbug about the dictates of one's own conscience. If a man is to set up his conscience against the obligations to do what is right and to perform his duty toward society, an unintelligent and uninformed conscience of that kind might be allowed to destroy all society. It is not conscience always.

Mr. Jones.—I beg your pardon, sir. The rights of conscience are eternally sacred. There is no conscience in regard to the State, however ; conscience has to do with God, and with what he has commanded ; and a man reads in the Bible what God commands. I here adopt the words of the present Associate-Justice of the Supreme Court of the United States, Hon. Stanley Matthews, in his speech in the case of the Cincinnati School Board *vs.* Minor *et al.* He says :—

"We may call the eccentricities of conscience, vagaries, if we please ; but in matters of religious concern we have no right to disregard or despise them, no matter how trivial and absurd we may conceive them to be. In the days of the early Christian martyrs, the Roman lictors and soldiers despised and ridiculed the fanaticism that refused the trifling conformity of a pinch of incense

upon the altar, erected to the Cæsar that arrogated to himself the title and honor of 'divine,' or of a heathen statue. History is filled with the record of bloody sacrifices which holy men who feared God rather than men, have not withheld, on account of what seemed to cruel persecutors but trifling observances and concessions. . . . Conscience, if your honors please, is a tender thing, and tenderly to be regarded ; and in the same proportion in which a man treasures his own moral integrity, —sets up the light of conscience within him as the glory of God shining in him to discover to him the truth,—so ought he to regard the conscience of every other man, and apply the cardinal maxim of Christian life and practice, 'Whatsoever ye would that men should do to you, do ye even so unto them.'"

Senator Blair.—Should those who conscientiously believe in free love be allowed to indulge in it?

Mr. Jones.—There is no point in that. Where is there any conscientious conviction in free love? I cannot discover it. There is no room for any.

Senator Blair.—But there must be laws which prohibit immorality?

Mr. Jones.—I ask you to define what immorality is, and then I will answer your question.

Senator Blair.—If you do not know what the expression means, I shall not undertake to enlighten you.

Mr. Jones.—I know what it means.

Senator Blair.—Then why do you ask me to define it? Why do you not answer the question?

Mr. Jones.—Because there are modified meanings of the word which make it refer to crime. Immorality is itself a violation of the law of God, and civil government has no right to punish any man for a violation of the law of God as such. I do say, therefore, that that which, properly speaking, is immorality, the civil law cannot prohibit, and that it has no right to attempt it. Morality is defined as follows:—

"Morality: The relation of conformity or non-conformity to the true moral standard or rule. . . . The conformity of an act to the divine law."

As morality is the conformity of an act to the divine law, it is plain that morality pertains solely to God, and with that, civil government can have nothing to do.

Again : Moral law is defined as —

"The will of God, as the supreme moral ruler, concerning the character and conduct of all responsible beings; the rule of action as obligatory on the conscience or moral nature." "The moral law is summarily contained in the decalogue, written by the finger of God on two tables of stone, and delivered to Moses on Mount Sinai."

These definitions are evidently according to Scripture. The Scriptures show that the ten commandments are the law of God ; that they express the will of God ; that they pertain to the conscience, and take cognizance of the thoughts and intents of the heart ; and that obedience to these commandments is the duty that man owes to God. Says the Scripture, —

"Fear God, and keep his commandments ; for this is the whole duty of man." Eccl. 12 : 13.

And the Saviour says, —

"Ye have heard that it was said by them of old time, Thou shalt not kill ; and whosoever shall kill shall be in danger of the judgment ; but I say unto you that whosoever is angry with his brother without a cause, shall be in danger of the judgment ; and whosoever shall say to his brother, Raca [vain fellow, *margin*], shall be in danger of the council ; but whosoever shall say, Thou fool, shall be in danger of hell fire." Matt. 5 : 21, 22.

The apostle John, referring to the same thing, says, —

"Whosoever hateth his brother is a murderer." 1 John 3 : 15.

Again, the Saviour says, —

“Ye have heard that it was said by them of old time, Thou shalt not commit adultery ; but I say unto you that whosoever looketh on a woman to lust after her, hath committed adultery with her already in his heart.” Matt. 5 : 27, 28.

Other illustrations might be given, but these are sufficient to show that obedience to the moral law is morality ; that it pertains to the thoughts and intents of the heart, and therefore, in the very nature of the case, lies beyond the reach or control of the civil power. To hate is murder ; to covet is idolatry ; to think impurely of a woman is adultery ; — these are all equally immoral, and violations of the moral law, but no civil government seeks to punish for them. A man may hate his neighbor all his life ; he may covet everything on earth ; he may think impurely of every woman that he sees, — he may keep it up all his days ; but so long as these things are confined to his thought, the civil power cannot touch him. It would be difficult to conceive of a more immoral person than such a man would be ; yet the State cannot punish him. It does not attempt to punish him. This demonstrates again that with morality or immorality the State can have nothing to do.

But let us carry this further. Only let that man's hatred lead him, either by word or sign, to attempt an injury to his neighbor, and the State will punish him ; only let his covetousness lead him to lay hands on what is not his own, in an attempt to steal, and the State will punish him ; only let his impure thought lead him to attempt violence to any woman, and the State will punish him. Yet bear in mind that even then the State does not punish him for his immorality, but for his *incivility*. The immorality lies in the heart, and can be measured by God only. The State punishes no man because he is immoral. If it did, it would have to punish as a mur-

derer the man who hates another, and to punish as an idolater the man who covets, and to punish as an adulterer the one who thinks impurely ; because according to the true standard of morality, hatred is murder, covetousness is idolatry, and impurity of thought is adultery. Therefore it is clear that in fact the State punishes no man because he is immoral, but because he is uncivil. It cannot punish immorality ; it must punish incivility.

This distinction is shown in the very term by which is designated State or national government ; it is called *civil* government. No person but a theocrat ever thinks of calling it moral government. The government of God is the only moral government. God is the only moral governor. The law of God is the only moral law. To God alone pertains the punishment of immorality, which is the transgression of the moral law. Governments of men are civil governments, not moral. The laws of States and nations are civil laws, not moral. To the authorities of civil government pertains the punishment of incivility, that is, the transgression of civil law. It is not theirs to punish immorality. That pertains solely to the Author of the moral law and of the moral sense, who is the sole judge of man's moral relation. All this must be manifest to every one who will think fairly upon the subject, and it is confirmed by the definition of the word *civil*, which is this : —

“ *Civil*: Pertaining to a city or State, or to a citizen in his relations to his fellow-citizens, or to the State.”

Thus it is made clear that we owe to Cæsar (civil government) only that which is civil, and that we owe to God that which is moral or religious, and that to no man, to no assembly or organization of men, does there belong any right whatever to punish immorality. Whoever attempts it, usurps the prerogative of God. The

Inquisition is the inevitable logic of any claim of any assembly of men to punish immorality ; because to punish immorality, it is necessary in some way to get at the thoughts and intents of the heart. The papacy, asserting the right to compel men to be moral, and to punish them for immorality, had the cruel courage to carry the evil principle to its logical consequence. In carrying out the principle, it was found to be essential to get at the secrets of men's hearts ; and it was found that the diligent application of torture would wring from men, in many cases, a full confession of the most secret counsels of their hearts. Hence the Inquisition was established as the means best adapted to secure the desired end. So long as men grant the proposition that it is within the province of civil government to enforce morality, it is to very little purpose that they condemn the Inquisition ; for that tribunal is only the logical result of the proposition.

Thus much on the subject of morality and the State in the true and genuine sense of the word *morality*. But as I said at the beginning, there is an accommodated sense in which the word *morality* is used, in which it is made to refer only to men's relations to their fellow-men ; and with reference to this view of morality, it is sometimes said that the civil power is to enforce morality *upon a civil basis*. But morality on a civil basis is only civility, and the enforcement of morality upon a civil basis is the enforcement of civility, and nothing else. Without the Inquisition, it is impossible for civil government ever to carry its jurisdiction beyond civil things, or to enforce anything but civility.

But it may be asked, Does not the civil power enforce the observance of the commandments of God, which say, "Thou shalt not steal," "Thou shalt not kill," "Thou shalt not commit adultery," and "Thou shalt not bear false witness"? Does not the civil

power punish the violation of these commandments of God? I answer: The civil power does not enforce these, nor does it punish the violation of them, *as commandments of God*. The State does forbid murder and theft and perjury, and some States forbid adultery, but not as commandments of God. From time immemorial, governments that knew nothing about God, have forbidden these things. If the State is to enforce these things as the commandments of God, it will have to take cognizance of the thoughts and intents of the heart; but this is not within the province of any earthly power.

By all these evidences is established the plain, common-sense principle that to civil government pertains only that which the term itself implies, — that which is civil. The purpose of civil government is civil, and not moral. Its function is to preserve order in society, and to cause all its subjects to rest in assured safety, by guarding them against all incivility. Morality belongs to God; civility, to the State. Morality must be rendered to God; civility, to the State. Immorality must be punished — *can* be punished — only by the Lord. Incivility must be punished — and no more than that *can* possibly be punished — by the State.

Here, then, at the close of my remarks, we are brought to the enunciation of the eternal principle with which I began, upon which we now stand, and upon which we forever expect to stand, — the principle embodied in the United States Constitution forbidding religious tests, and forbidding Congress to make any law respecting an establishment of religion or prohibiting the free exercise thereof, — the principle established by Jesus Christ: *Render therefore UNTO CÆSAR the things which are CÆSAR'S; and UNTO GOD THE THINGS THAT ARE GOD'S,*

REMARKS BY REV. A. H. LEWIS, D. D.

Dr. Lewis.—Mr. Chairman. The objection raised by Prof. Jones against the exemption in favor of Sabbath-keepers, seems to me wholly imaginary. So far as any Seventh-day Baptists are concerned, I know it would be impossible for any man opening a saloon on Sunday to present the excuse that he was a Seventh-day Baptist. A saloon-keeping Seventh-day Baptist is an unknown thing throughout their history of more than two centuries. Such a man could not obtain recognition, much less church membership, in any Seventh-day Baptist community or church. Nor do I believe from what I know of the Seventh-day Adventists, that such a case could occur in connection with that people. The possibility of any such deceitful claim could easily be guarded against by a provision requiring that in any case of doubt the one claiming to have observed the seventh day should be required to bring official certificate of his relation to a Sabbath-keeping church. Such a provision would end all difficulty.

REPLY.

Mr. Jones.—Mr. Chairman. It is certainly true that, so far, a saloon-keeping Seventh-day Baptist, or Seventh-day Adventist, either, is an unknown thing. But if Sunday laws are enforced with an exemption clause in favor of those who keep the seventh day, this would not be an unknown thing much longer. It is true, also, that such a man could not obtain membership in any Seventh-day Baptist or Seventh-day Adventist church. But what is to prevent the saloon keepers from organizing Seventh-day Baptist or Seventh-day Adventist churches of their own, and for themselves? What is to prevent them, or any class of business men, from organizing their own churches, electing their own officers, and even ordaining their own pastors, and calling them-

selves Seventh-day Baptists or Seventh-day Adventists? There is nothing to prevent it ; unless, indeed, the State itself shall take charge of all seventh-day churches and doctrines, and attend to their organization and the admission of members. This is precisely what was done before. In the days of the New England theocracy, Massachusetts enacted a law that,—

“For the time to come, no man shall be admitted to the freedom of this body politic, but such as are members of some of the churches within the limits of the same.”

There were considerable numbers of men who were not members of any of the churches, and who could not be, because they were not Christians. These men then took to forming themselves into churches of their own. Then the next step for the authorities to take, and they took it, was to enact a law that,—

“Forasmuch as it hath bene found by sad experience that much trouble and disturbance hath happened both to the church and civill State by the officers and members of some churches, wch have bene gathered . . . in an undue manner, . . . it is . . . ordered that . . . this Court doeth not, nor will hereafter, approue of any such companyes of men as shall henceforthe ioine in any pretended way of church fellowship, without they shall first acquainte the magistrates and elders of the greatr pte of the churches in this jurisdicon, with their intencons, and have their approbacon herein.”—*Emancipation of Massachusetts, pp. 28-30.*

By this, gentlemen, you will see that the enactment of this Sunday law, though the first step, will not be by any means the last step, and that in more directions than one. Their offer of an exemption clause is a voluntary confession that the enforcement of the law without one would be unjust ; but if that exemption clause be embodied and maintained, the State is

inevitably carried beyond its proper jurisdiction ; and if the exemption clause is retained and not maintained in its strictness, the whole law is at once nullified. Congress would better learn wisdom from this prospect, and utterly refuse to have anything at all to do with the subject. The whole subject is beyond the jurisdiction of the civil power, and the civil power can do no better than to let it entirely alone.

But Dr. Lewis proposes to guard against all difficulty, by "requiring" every observer of the seventh day "to bring official certificate of his relation to a Sabbath-keeping church." This would not end the difficulty ; for, as I have shown, it would inevitably devolve upon the State to decide what was a genuine Sabbath-keeping church. But that is not the worst feature in this suggestion. If Dr. Lewis officially represents the Seventh-day Baptist denomination, and for the denomination proposes thus voluntarily to put himself and all his people on "ticket of leave," I have no particular objection ; that is their own business ; yet it seems to me an extremely generous proposition, if not an extraordinary proceeding. I say *they* may do this, if they choose. But as for me and for the Seventh-day Adventists generally, not only as Christians, but as American citizens, we repudiate with scorn and reject with utter contempt every principle of any such suggestion. As citizens of the United States, and as Christians, we utterly and forever refuse to put ourselves upon "ticket of leave" by any such proposition.

NOTE. — That my argument at first was not so unfounded nor so "wholly imaginary" as Dr. Lewis supposed, has been conclusively demonstrated, even to himself, since this hearing was held. The "Pearl of

Days" column of the New York *Mail and Express*, the official organ of the American Sunday Union, in March, 1889, gave the following statement from the Plainfield [N. J.] *Times* [no date]:—

"As a rule, Plainfield, N. J., is a very quiet city on Sunday. Liquor, provision, and cigar stores are closed by the enforcement of a city ordinance. If a resident wants a cigar, he will either have it given to him by one of the many pharmacists who refuse to sell on Sunday, or he will go to the two dealers who are allowed to open their places on Sunday because they observe Saturday as their Sabbath. Some time ago a man of Catholic faith, who had an eye to Sunday business in that line, became a regular attendant at the Seventh-day Baptist church. Eventually he asked to be admitted into the fellowship of the church. A member of the official board was advised that the applicant for membership was only working for business ends. He was closely examined by the church officers, and he finally admitted that he wanted to open a cigar store and do business on Sunday. The man appeared at the wrong place for aid in carrying out his mercenary purposes. He was not received into membership."

It looks somewhat like the "irony of fate" that this thing should fall to the very people whom Dr. Lewis represented, and in the very town where Dr. Lewis himself lives.

REMARKS BY MRS. J. C. BATEHAM.

Mrs. Bateham.—I should like to say that the point which has been made was a point carefully considered by the Woman's Christian Temperance Union, and we saw the danger. Yet we wished to be exceedingly fair. I consulted nine persons of different classes of Seventh-day people, to know whether they wished such an exemption, and whether they would be satisfied with what was proposed. They represented themselves as being in approval of some such provision as has been sug-

gested, and we thought it could be done perhaps in such a way as to afford them the exemption which they desire, because they said that such an exemption is necessary.

Senator Blair.—Let me ask you a few questions, Mrs. Bateham, to see if the Woman's Christian Temperance Union understood exactly the relation of what they propose to do in this legislation. Here is a bill which relates to interstate commerce, to postal work, to the army, and to the navy. It relates to that subject-matter which is carved out of the independent, full jurisdiction of a nation by the States, which were once complete sovereignties, and transferred to the general Government. The occupations I have mentioned are all of public nature; and to carry them on, the nation has such an opportunity to invade the Sabbath-rest laws of every State in such a way as to nullify them. The nation at large is unrestrained by any Sabbath law whatever. If it may carry on its post-office business on the Sabbath, it may go to any extent, and it does go already to a very great extent, and an increasingly great extent; so in regard to interstate commerce, and so with the army and the navy.

Now, you go to our Seventh-day Baptist or Seventh-day Adventist friends, for instance, and propose to introduce a principle by which they can carry on the post-office department on the Sabbath, just as completely as they see fit. In other words, you propose to exempt them from the operation of the law so far as it prohibits post-office work on the Sabbath. Suppose you have a Seventh-day Baptist man for postmaster. Suppose you fill up every post-office in the country on the Sabbath with Seventh-day Baptist people. You have the post-office department in operation by virtue of this exemption, because they can do the work conscientiously on that day. If you limit it by saying the

bill shall not apply to the Adventists and others, the bill provides that already.

Mrs. Bateham. — If you remember the clause, we do not propose to provide that they shall be able to do this work, but that they shall be exempt from the penalty. They are not allowed to do the work, but they are to be exempt from the penalty. Therefore, unless they could prove that they had not done the work to the disturbance of others, it would be impossible for them to carry on post-office matters, for instance, or any other public employment, on Sunday.

Senator Blair. — Is not that equivalent to saying that if the penalty shall not be enforced against them, there shall be no law against them? Because the law without the penalty is simply an opinion; it is not a law.

Mrs. Bateham. — The law could provide that they should not open a post-office, for instance, or any place of business; and if there was a fine imposed, they would be compelled to close such places on Sunday. It was, of course, only thrown out as a suggestion from us that if it could be done, we should like to have such a provision in the bill. We are satisfied that people want the law, and if the law can, in your wisdom, be arranged with such an exemption, then we wish it; otherwise we do not. We are all glad, I think, to have the gentlemen admit that they do not want such an exemption, for that releases us from the place where we were.

Senator Blair. — This is not to be a general Sunday law. These people all live in States, and they can work at their private occupations just the same under similar amendments to the State law, if the State saw fit to make such amendments. Prof. Jones says it did not work well in Arkansas, and I should think it did not, from his description. But these are public occupations, or *quasi* public occupations, we are dealing with; that of interstate commerce, for instance, carried on by

great corporations which are public in their relation to the working-men, because they are exercising a great public function in carrying on transportation which appertains to everybody all over the country.

This proposed law undertakes to prohibit the nullification of all Sunday-rest laws in the States so far as to provide that interstate commerce shall not be carried on, in violation of the law, upon the Sabbath. When you come to the private occupations which are regulated by the States, if they choose to allow the Seventh-day Baptist people to work on Sunday in those private occupations, on the farm, in the workshop, in the factory, this measure does not interfere with them at all.

Mrs. Bateham. — I have not the words before me, but my impression is that there is a clause in the bill providing that the jurisdiction of Congress shall be exercised over the Territories in this matter. There is something of that kind in the bill, and this proposed exemption was designed to reach those cases, rather than apply to the general governmental action.

Senator Blair. — You think the exemption might be made with reference to the Territories?

Mrs. Bateham. — Yes; that was the point we had in mind in this general action. I have not the words of the bill before me, but there is something of that kind in it which we had in mind. I wish to say also that one of the requests of our National Woman's Christian Union was that the word *promote* should be changed to *protect*, in the title of the bill, so that it should have no appearance of what all Americans object to, any union of church and state. That amendment was proposed and accepted by the American Sabbath Union, the organized body which has just been in session in this city.

Senator Blair. — Do you not think that the word *protect* implies power to command and compel? An army protects.

Mrs. Bateham. — All our laws protect us, do they not?

Senator Blair. — You would make this a law?

Mrs. Bateham. — I suggest that the bill be made a law, and that it be a law which shall protect the civil Sabbath, not promote religious worship, but protect the day as a day of rest and religious worship.

Senator Blair. — It seems to me that the word *protect* is a stronger and more interfering word than *promote*. However, all these suggestions are important

REPLY.

Mr. Jones. — Mr. Chairman. Mrs. Bateham in her first address this morning, in telling who they are that are in favor of this Sunday law, said that she believed "the great majority of the people will approve such a law." She mentioned as opposed to it only "the daily newspaper press," "the railroad managers," "steamboat companies," "saloonists and their backers," "a class of foreigners who prefer the continental Sunday," and "the very small sect of Seventh-day Baptists."

Hon. G. P. Lord in his remarks said that "not more than three million of our population work on Sabbath, and most of this number are unwilling workers." He said that "the balance, or more than fifty-seven million of our population, abstain from toil on the Sabbath."

Taking these statements as the truth, it appears that the overwhelming majority of the American people are not only in favor of the Sunday law, but they actually keep that day as a rest day.

Now, gentlemen, is it not rather singular, and a doctrine altogether new in a government of the people, that the *majority* need to be *protected*? From whom are they to be protected? — From themselves, most assuredly, because by their own representation they are so vastly in the majority that it would be impossible for

them to be oppressed by anybody else. But in a government of the people, when the majority are oppressing themselves, how can laws prevent it when the laws must be made by the majority, that is, by the very ones who are carrying on the oppression? If to them my argument seems unsound, I would cite, entirely for their benefit, the words of the Supreme Court of Ohio, that the "protection" guaranteed in our Constitutional provisions "means protection to the minority. The majority can protect itself. Constitutions are enacted for the purpose of protecting the weak against the strong, the few against the many."

This is sound sense, as well as sound Constitutional law. Now, suppose in accordance with this sound Constitutional principle, and under cover of their own statements, we, seventh-day observers, whom they themselves designate as being so entirely in the minority as scarcely to be worthy of recognition,—suppose we should come to Congress asking for protection (and as all my argument has shown, if anybody needs protection in this matter, assuredly it is ourselves),—suppose, then, we come to Congress asking for protection in the same way that *they* ask for it,—suppose we should ask Congress to enact a law compelling all people to do no work on Saturday, in order to protect us in our right to keep Saturday; what would be thought of that? what would these people themselves think of it? what ought anybody to think of it, but that it was a piece of unwarranted assumption of authority to force upon others our ideas of religious observances? That is all it would be, and it would be utterly inexcusable. And I risk nothing in saying that these people themselves, as well as everybody else, would pronounce it unwarrantable and inexcusable. But if that would be so in the case of a minority who actually need to be protected, what, then, ought *not* to be thought of these peo

ple who claim to be in the overwhelming majority, in their mission here, asking Congress to compel everybody to rest on Sunday for *their* protection!

Gentlemen, it is not protection, but *power*, that they want.

REMARKS BY JOHN B. WOOD.

Mr. Wood.—Mr. Chairman. As a member of the society of Friends, a Quaker, I should like to say a few words.

I have a great deal of sympathy with people who talk about the right of conscience. I do not think the United States Government has any right over the conscience. We, as Friends, deny their right over our consciences while we act in accordance with the revealed will of God, the Bible.

In looking at this Sunday question, I see nothing in the Bible—there is no word in it—in which it is stated that we shall have to work on the first day of the week. Therefore, I do not think the Seventh-day Baptists have any right to object to the proposed legislation. The only thing they lose is one more day's work out of the week.

The society of Friends has always denied the right to fight. The result has been that in the United States they have never lost a life by that means, not even during the last war. The Lord Jesus Christ has always protected them.

I think that any Saturday Baptist who believes honestly that the Sabbath is Saturday, can depend upon the Lord's providing for him in five days of the week just as well as if he worked six, and he will have two Sundays instead of one, and be that much better off.

REPLY.

Mr. Jones. — In answer to the question raised by Mr. Wood, that conscientious convictions do not require us to work on the first day of the week, one of the six working days, I wish to say, —

First, we deny his right, as well as the right of the State, to assume the prerogative of deciding for us what the Bible teaches, or what our conscientious convictions do, or do not, require.

Secondly, we deny the right of the State to cause us to lose the whole, or any part, of a day's work out of every week. And I turn this point upon him as I turned it upon the others, Why have we not as much right to ask for a law compelling them to rest on the day that we keep, as they have to compel us to rest on the day which they keep? "The only thing they would lose is one more day's work out of the week." Then they could "have two Sundays instead of one, and be that much better off." Why is it not as good for them as it is for us? Or is this a benefit reserved solely for those who do *not* keep Sunday? How this invades the Constitutional right of acquiring and possessing property, and does deprive us of property without due process of law, I have already discussed.

Thirdly, upon this point I wish to read Judge Cooley's opinion.

Mr. Wood. — I referred to the Bible.

Mr. Jones. — The Bible says, "Six days shalt thou labor." While I do not insist that this is an absolute command that we shall actually work the whole six days, I do insist that it is a God-given permission, and therefore our God-given right, to work six days of every week. And we deny forever the right of the State to forbid us to do that which, to say the very least, God has given us the express right to do.

As this is a matter of legislation and therefore of law, Judge Cooley's opinion is of weight upon the subject. He says :—

“The Jew [and the seventh-day Christian as well] who is forced to respect the first day of the week, when his conscience requires of him the observance of the seventh also, may plausibly urge that the law discriminates against his religion, and by forcing him to keep a second Sabbath in each week, *unjustly*, though by indirection, *punishes him for his belief*.”

I have shown —

Senator Blair. — He says “plausibly.” That word *plausibly* indicates that there are some counter views somewhere.

Mr. Jones. — As to the exact sense in which he uses the word *plausibly*, of course we cannot tell without consulting Mr. Cooley himself; but I do not see why we should put the strongest meaning into the word, especially as farther on he shows that the argument of the Seventh-day keeper is unanswerable. I am inclined to think that the Judge uses the word there in the sense of fairly, rightly, or feasibly.

Next he says :—

“The laws which prohibit ordinary employments on Sunday are to be defended, either on the same grounds which justify the punishment of profanity, or as establishing sanitary regulations based upon the demonstration of experience that one day's rest in seven is needful to recuperate the exhausted energies of body and mind.”

That is one of the pretended grounds of this petition for this national Sunday law; but the answer of the Supreme Court of California to that is this :—

“This argument is founded on the assumption that mankind are in the habit of working too much, and thereby entailing evil upon society; and that, without

compulsion, they will not seek the necessary repose which their exhausted natures demand. This is to us a new theory, and is contradicted by the history of the past and the observations of the present. We have heard in all ages of declamations and reproaches against the vice of indolence ; but we have yet to learn that there has ever been any general complaint of an intemperate, vicious, unhealthy, or morbid industry. On the contrary, we know that mankind seek cessation from toil, from the natural influences of self-preservation, in the same manner and as certainly as they seek slumber, relief from pain, or food to appease their hunger. . . . If we cannot trust free agents to regulate their own labor, its times and quantity, it is difficult to trust them to make their own contracts. If the legislature could prescribe the days of rest for them, then it would seem that the same power could prescribe the hours to work, rest, and eat."—*Ex parte Newman*, 9 Cal. 509, 518.

And Judge Cooley's answer to it is this : —

"The Supreme Court of Pennsylvania have preferred to defend such legislation on the second ground rather than the first, but it appears to us that if the benefit of the individual is alone to be considered, the argument against the law which he may make who has already observed the seventh day of the week, is unanswerable."

Senator Blair. — But he also holds that for the general, the public good, Sunday laws are Constitutional.

Mr. Jones. — Yes ; and to be sustained upon authority. For the next sentence says : —

"But on the other ground, it is clear that these laws are supportable on authority, notwithstanding the inconvenience which they occasion to those whose religious sentiments do not recognize the sacred character of the first day of the week."

It is something unusual for persons to undertake to answer an unanswerable argument. But Judge Cooley employs here the only means by which an un-

answerable argument can ever be answered: and that is, "on authority." That is the way the papacy has done it from the days of Pope Zosimus, A. D., 418, who, when asked for the reasons for certain of his arrogant actions, exclaimed: "So it has pleased the Apostolic See!" That was a sufficient answer to all inquiries, and even to unanswerable arguments.

England fastened upon the American colonies the Stamp Act. Our fathers presented unanswerable arguments against it; but the Stamp Act, like Judge Cooley's Constitutional Sunday laws, was supportable "on authority," and that was enough. England proposed to enforce it. But our revolutionary fathers refused assent to any such method of answering unanswerable arguments. So we refuse our assent to Mr. Cooley's answer to that which he himself pronounces an unanswerable argument.

Senator Blair.—It does not follow that there is no unanswerable argument in support of Sunday laws, I take it.

Mr. Jones.—There is the authority.

Senator Blair.—There is authority for the Sunday laws. It does not follow because the Sunday laws are supported by authority that therefore there is no sufficient argument upon which to base them.

Mr. Jones.—What authority is there for Sunday laws?

Senator Blair.—That is what you have been discussing; but you seem to say that because Sunday laws are supported "by authority," it is the only argument in favor of a bad law that there is authority for it. But there may be good authority for the Sunday law.

Mr. Jones.—That is what is shown here, that there is no good authority for it when it unjustly punishes a man for his belief. There cannot be any good authority

for unjustly punishing any man for anything, much less for unjustly punishing him for his belief.

Senator Blair. — He does not say it is bad.

Mr. Jones. — But it *is* bad. Is there any good answer to an unanswerable argument?

Now, I propose to find out what authority there is for Sunday laws.

I before referred to the decision of the Supreme Court of Arkansas, and have shown from a statement of the committee on "law and law reform," of which the members of the Supreme Court were members, that that decision was unconstitutional. I have shown that the principle upon which their decision rested was that of the omnipotence of parliament. In this, however, the State of Arkansas only followed the decisions of other States. In 1858, the Constitution of California said, in Section 4: "The free exercise and enjoyment of religious profession and worship without discrimination or preference shall forever be allowed in this State." There was a statute passed by the legislature enforcing the observance of "the Christian Sabbath," on the first day of the week. A Jew in Sacramento kept his store open on Sunday; he was arrested, convicted, and sent to jail. He sued out a writ of *habeas corpus* on the ground of "the illegality of his imprisonment by reason of the unconstitutionality of the law." The majority of the court sustained the plea by decisions separately written, whose soundness, both upon Constitutional principles and upon the abstract principle of justice itself, can never be successfully controverted. Mr. Stephen J. Field, now Associate-Justice of the Supreme Court of the United States, was then a member of the California Court. He rendered a dissenting opinion, taking the same position as the Supreme Court of Arkansas as to the omnipotence of the legislature, and soberly maintaining that the term "Chris-

tian Sabbath" in the act was not a discrimination or preference in favor of any religious profession or worship. He declared that "moralists and statesmen," "men of science and distinguished philosophers," have pronounced the rule of "one day's rest in seven" to be "founded upon a law of our race." But he omitted to state what scientist or philosopher or moralist or statesman has ever pronounced upon what law is founded the rule of *two* days' rest in seven for the man who chooses to rest some other day than Sunday!

In his written opinion, Mr. Field said that he had found that in twenty-five States of the Union, Sunday laws had been held to be Constitutional. That this is so there can be no doubt. On this subject, as on that of blasphemy, which I have already noticed, the younger States, both in legislation and judicial decisions, have followed the example of the older States; these have followed the decisions of the oldest, and the oldest followed the example and the precedents of the colonies; and every one of the colonies had Sunday laws because every one had an established religion. These followed the precedents of the English system, which is wholly a church-and-state system. The church-and-state system of England severed itself from the papal rule when Henry VIII. renounced allegiance to the pope, and put himself at the head of the church of England in the place of the pope. The British system at that time was the papal system; the papal system was established by the mutual craft, flattery, and policy of Constantine and the ambitious bishops of his time, when the first Sunday law was enacted. This, in a word, is the genealogy of the Sunday laws of the United States. They belong with an established religion, — a union of church and state. And in this country they have been almost universally sustained, either upon the British principle of the omnipotence of par-

liament, or upon the church and state principles of the colonies, of the British government, and of the papacy.

The law of Pennsylvania, sustained by the decision referred to by Judge Cooley, was virtually a colonial law, which was a part of the system in which nobody who did "not confess and acknowledge one Almighty God to be the Creator, upholder, and ruler of the world," could be a citizen.

The Supreme Court of New York sustains Sunday laws by at once declaring Christianity to be the established religion of that State. This is based upon Chief Justice Kent's decision before referred to, which cited a law of the colony which declared that "the profanation of the Lord's day was 'the great scandal of the Christian faith.'" That decision of Judge Kent's made Christianity the established religion of the State of New York, by citing the precedents of the papal institutions of modern Europe and the pagan nations of antiquity.

This, again, proves Sunday laws to belong with established religions, with the union of church and state, finding their basis in papal and pagan institutions.

In every statute book in America, with scarcely an exception, Sunday laws are found under the head of "offenses against religion," or "offenses against God and religion." This springs naturally from the colonial legislation, where each colony deemed itself the special guardian of God and of some particular form of religion.

But according to the word of Christ, the civil power has nothing to do with either God or religion, nor with offenses against God or religion. Religion is defined by Webster as "the recognition of God as an object of worship, love, and obedience." Another definition, given by the National Reform Association itself, is "man's personal relation of faith and obedience to God." Civil government has nothing to do with a man's per-

sonal relation of faith and obedience to God. If he has no faith at all, and makes no pretensions to obedience to God, that is nothing to the civil government, so long as the man conducts himself civilly. Neither has civil government anything to do with offenses against God; the Lord himself can attend to that. A man is responsible alone to God for the offenses which he commits against God. Civil government has no business to establish a religion, and then make offenses against it criminal; nor has it any business to put itself in the place of God, and presume to declare that an offense against *the governmental idea of God* is an offense against God. How is the civil government to know whether an act offends God or not? The fact of the matter is, that just as soon as Sunday laws are investigated at all in the light of truth, or justice, or law, it is found that they are inseparable from an established religion,—inseparable from a union of church and state.

This is further shown by a mere glance at the British system, as set forth by Blackstone in his chapter on "Offenses against God and religion." There "profanation of the Lord's day" is classed with such things as "apostasy," "heresy," "reviling the ordinances of the church," "non-conformity to the worship of the church," "witchcraft," "conjurament," "enchantment," "sorcery," "religious imposture, such as falsely pretending an extraordinary commission from heaven," adultery as an ecclesiastical offense cognizable by the spiritual court, and such confusion of civil and religious ideas as the punishment of drunkenness as an offense against God and religion. This is the company with which Sunday laws belong. The penalty for apostasy was, first, burning to death; this fell into disuse after a while. Then the penalty was that "for

the first offense the offender should be rendered incapable to hold any office or place of trust."

At such legal nonsense as this the United States Constitution struck a death blow in the clause which declares that "no religious test shall ever be required as a qualification to any office or public trust under this Government." And by the first amendment to the Constitution of the United States, this Government utterly separated itself from the whole system of offenses against God and religion so long maintained by the British government, by the colonies, and even yet by many of the States, and which is characteristic of all church-and-state governments — governments of established religion — by declaring that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." This is sound American principle, and accords with the word of Jesus Christ. And the effort ought to be, throughout this whole nation, to lift the constitutions, the legislation, and the jurisprudence of the States up to the level of that of the national Constitution. But instead of doing that, and so carrying this whole nation bodily onward in the march of liberty, enlightenment, and progress, these people go about to bring down our national system of Constitution and laws to the level of that of the States, which is the level of that of the colonies, which is the level of that of the British system, which is the level of that of the papacy, which is the system of paganism under cover of the Christian name.

Dr. Elliott here to-day cited Edgar, Athelstan, and Alfred in support of Sunday laws. To be sure! And with equal force he can cite these and many others of the Dark Ages in support of tithes to the clergy, the supremacy of the monks in civil affairs, the "holy anointing" of kings by the pope, and for any and every

other thing that belongs with the papal system. He can carry his Sunday-law precedents farther back than that : he can go back to the time of Theodosius and Constantine. He can find, and so can you or anybody else, that as *Pontifex Maximus* of the old pagan system, Constantine "had the plenary power of appointing holy days ;" he can find that by virtue of this power, Constantine established the first Sunday-law of all time, in honor of the "venerable day of the sun," whose special devotee he was ; and also that, as "bishop of externals" of the new pagan system, — the papal, — which office he assumed by virtue of his political conversion to the political Christianity of his time, he played into the hands of the ambitious bishops by giving them in that Sunday law their coveted "use of the power of the State for the furtherance of their aims" to compel men to accept the decrees, and submit to the dictates, of the church. He, and all others, will find that this is the literal truth of the origin of Sunday laws.

All this is supported by abundance of testimony of undoubted authority. So eminent a divine as Dean Stanley declares plainly that the retention of the old pagan name of "*dies solis*," or Sunday, for the weekly Christian festival, "is owing to the union of pagan and Christian sentiment with which the first day of the week was recommended by Constantine to his subjects, pagan and Christian alike, as the 'venerable day of the sun.' . . . It was his mode of harmonizing the discordant religions of the empire under one common institution."

This same mode of harmonizing paganism with Christianity was further illustrated by his imperial coins, bearing on one side the name of Christ, and on the other the figure of the sun god, with the inscription, "the unconquerable sun." This confusion of pagan and Christian ideas and practices is what made the

papacy, the union of church and state, and the confusion of civil and religious things, from which, with the exception of the government of the United States, the nations have not even yet freed themselves. This, sir, is the authority, and the only authority, for Sunday laws. Sunday has no basis whatever as a civil institution; it never had any. And the only basis it has, or ever had, as a *religious* institution is in that confusion of paganism and Christianity which made the papacy, with all that it is or ever was.

As authority for Sunday, and as the basis of this legislation, Dr. Johnson here to-day appealed to the fourth commandment. The "American Sabbath Union," now in session in this city, and which is working for the passage of this bill, likewise declares the basis of their whole movement to be the fourth commandment. It is proper, therefore, to inquire, What authority is there for Sunday laws, in the fourth commandment? As this is a question of legislation and of law, I shall examine it from the stand-point of law. Suppose, then, that this bill has become a law, and the courts in construing it take judicial cognizance of the fourth commandment as the basis of the law.

Courts are guided by certain well-established rules in the construction of laws. According to these rules, what would be the result of the judicial construction of such a law upon the basis of the fourth commandment?

1. "What a court is to do, is to declare the law as written."

The fourth commandment as written is as follows:—

"Remember the Sabbath day to keep it holy. Six days shalt thou labor, and do all thy work: but the seventh day is the Sabbath of the Lord thy God: in it thou shalt not do any work, thou, nor thy son, nor thy daughter, nor thy man-servant, nor thy maid-servant, nor thy cattle, nor thy stranger that is within thy gates:

for in six days the Lord made heaven and earth, the sea, and all that in them is, and rested the seventh day : wherefore the Lord blessed the Sabbath day and hallowed it."

That commandment as written says, "The seventh day is the Sabbath." Consequently, at the very first step the first day of the week, as declared in the bill, and as these people demand, would be completely shut out. But if any should innocently inquire, The seventh day of what? the commandment itself is ready with an explicit answer. It is the day upon which the Lord rested from the work of creation. In that work he employed six days, and the seventh day he rested, and that alone, as Dr. Johnson has said, established the weekly division of time. As those seven days formed the first week of time, the seventh of those seven was the seventh day of the week, and that is the seventh day fixed in the commandment. This is confirmed by the Scriptures throughout. The New Testament itself declares that the Sabbath is past before the first day of the week comes. Mark 16 : 1, 2, says : —

"And when the Sabbath was past, Mary Magdalene, and Mary the mother of James, and Salome, had brought sweet spices, that they might come and anoint him. And very early in the morning, the first day of the week, they came unto the sepulcher at the rising of the sun."

Those people mentioned in this Scripture came to the sepulcher very early in the morning of the first day of the week ; yet the Sabbath was past. This national Sunday-bill which is here under discussion proposes to secure the religious observance of the Sabbath on the first day of the week. But such a thing can never be done, because according to the scripture, the Sabbath is past before the first day of the week comes. It matters not how early persons may come to the first day of the week and its observance, they will be too late

to find the Sabbath in it ; because by the word of the Lord it is past before the first day of the week comes.

This is made yet more positive, if need be, by the record in Luke 23:56 and 24:1, which says :—

“ And they returned, and prepared spices and ointments ; and rested the Sabbath day according to the commandment. Now upon the first day of the week, very early in the morning, they came unto the sepulcher, bringing the spices which they had prepared, and certain others with them.”

Here it is declared that certain people rested the Sabbath day *according to the commandment*, and then on the first day of the week did what they would not do on the Sabbath day. This proves conclusively that the Sabbath day according to the commandment which these men cite, and which it is supposed that the courts will have to interpret when this becomes a law,—this proves that that Sabbath day is the day before the first day of the week, and therefore plainly demonstrates that the seventh day named in the commandment is nothing else than the seventh day of the week. Therefore, if courts, in the interpretation of this commandment as the basis of a Sunday law, declare the law as written and as defined by the plain word of the Lord, they will have to declare that the seventh day of the week, and not the first day, is the Sabbath.

2. “ In the case of all law, it is the intent of the law-giver that is to be enforced.”

What, then, was the intent of the Lawgiver when the fourth commandment was given? Did the Lawgiver declare or show in any way his intention?—He did. When the Lord gave that law at Sinai he did not leave it to the people to interpret it to suit themselves, nor to interpret it at all. By three special acts every week, kept up continuously for nearly forty years, he showed his intent in the law. The people were fed by manna in their forty years' wanderings. But on the

seventh day of the week no manna ever fell. On the sixth day of the week there was a double portion, and that which was gathered on that day would keep over the seventh, which it could not be made to do at any other period, or over any other day in the week.

By this means the Lawgiver signified his intent upon the subject of observing the day mentioned in that law ; and keeping it up continuously for so long a time made it utterly impossible that his intent should be mistaken.

Therefore, if the courts of the United States shall ever take judicial cognizance of the fourth commandment, which is held forth by these people as the basis and the authority for their movement, according to this rule, the seventh day of the week, and not the first day, will have to be declared the Sabbath.

3. "When words are plain in a written law, there is an end to all construction : they must be followed."

Are the words of the fourth commandment plain words?—They are. There is not an obscure nor an ambiguous word in the commandment.

Then, according to this rule, if ever that question becomes one of judicial cognizance in the courts of the United States, the seventh day of the week, and not the first day, will have to be declared to be the Sabbath. That is all that the courts can declare.

Therefore, the conclusion of the whole matter thus far is that if our courts are to remain courts of law and are to be guided by the established rules for the construction of law, they never can uphold any law for the enforcement of the Sabbath or the Lord's day on the first day of the week.

Just here, however, another element comes into court, and that is the theological. The theologians step in right here and declare that the intention of the fourth commandment has been changed, and that now, instead of that commandment's requiring the observance of the

seventh day in remembrance of creation, it requires the observance of the first day of the week in remembrance of the resurrection of Christ. To reach this point they first declare that the phrase "the seventh day" in the commandment is indefinite ; that it does not enjoin the observance of any particular day, but only of one day in seven. But such a construction is not only clearly in violation of established rules for the construction of law, but it involves an assumption of power on their part that can never be allowed. Admitting for argument's sake that that phrase in the commandment is indefinite, it must be admitted that the Lord, when he wrote it, intentionally made it indefinite, because the Scripture says that when he had spoken these words, he added no more ; he had nothing more to say on the subject. What he said then was final. If, then, that statement be indefinite, he intended it so, and no other than the Lord ever can, or ever has the right to, make it definite. But the theologians, just as soon as they make it indefinite to escape the obligation which it enjoins to observe the seventh day, then make it definite in order to sustain the supposed obligation to keep the first day of the week. Consequently, when they make it definite after having declared that the Lord made it indefinite, they assume the power and the prerogative to do what the Lord intentionally declined to do ; and in that they put themselves above God.

So much for their theological assumptions. Such a course is not only theologically an assumption of almighty power, but on the basis of law it is a violation of the rule which declares that—

4. "No forced or unnatural construction is to be put upon the language of a statute."

To make the phrase "the seventh day" in that commandment indefinite, and mean any one day in seven and not any seventh day in particular, is nothing else

than to put a forced and unnatural construction upon the language, not only of the commandment itself throughout, but on all the language of the Scriptures upon the subject of the commandment.

Further, to make that commandment support the observance of the first day of the week in commemoration of the resurrection, is not only to put a forced and most unnatural construction upon it, but is a direct violation of that other rule of law which declares that—

5. "A constitution [or statute] is not to be made to mean one thing at one time and another at some subsequent time when the circumstances may have so changed as perhaps to make a different rule in the case seem desirable. . . . The meaning of the constitution [or statute] is fixed when it is adopted, and it is not different at any subsequent time when a court has occasion to pass upon it."

As I have clearly proved, the meaning of the fourth commandment when it was given was that the seventh day of the week should be observed, and for the reason that God rested that day from the work of creation, and blessed the day and hallowed it. That Sabbath day for that reason was established before man had sinned, and before there was any need of the resurrection of Christ. If man had never sinned, the day would have been observed, for the reason given, in commemoration of the rest of the Creator from his work of creation. That being the meaning of the commandment when the commandment was given, that must be the meaning of the commandment so long as the commandment remains. And according to this rule it can never be made to mean anything else; although to the theologians who wish to have it so, the circumstances concerning the resurrection may seem to make it desirable.

Here the question very pertinently arises, Shall the Congress and the courts of the United States adopt the wishes of the theologians, and, in violation of the rules

of law, undertake to make the statute of God mean that which it was never intended to mean? In contemplation of this demand which is now made by the theologians, the words of Judge Cooley — "Constitutional Limitations," p. 67 — are worthy of consideration by Congress, as well as by the judges of the United States courts. He says: —

"A court or legislature which should allow a change of public sentiment to influence it in giving to a written constitution a construction not warranted by the intention of its founders, would be justly chargeable with reckless disregard of official oath and public duty."

The theologians have given to the fourth commandment a construction which is not in any sense warranted by the intention of the Author of the commandment. They come to the national legislature, and ask it to allow itself to be influenced by these theological sentiments in giving to that written constitution of the government of God, a construction which is not warranted by the intention of the Founder of that constitution. As Judge Cooley says, such a thing done to a human constitution, an earthly statute, would be reckless disregard of official oath and public duty. But if this is true in the case of things wholly human and earthly, what should be thought of such an action with reference to the divine constitution, and heavenly law?

Will the national legislature allow this theological sentiment to influence it to commit an act with reference to the constitution and laws of the living God, which, if committed with reference to the laws of men, would be reckless disregard of official oath and public duty? Not only do I ask, Is the national legislature ready to do this? but is it ready also by doing it to force the United States courts into the sanctioning of it in direct violation of the plainest principles of every rule for the construction of law? Is the national legislature ready to take the step which would turn all

our courts of law into courts of theology? For such would be the only effect of the enactment of such a law as is here demanded by the theologians ; because when the law comes to be interpreted by the courts upon the basis upon which the law is enacted, the first day of the week as the Sabbath can never be sustained by rules of law or by the principles of interpretation established in law. The only way it can ever be sustained is by principles established by the theologians and by theological distinctions, in total disregard of the rules of law ; and the effect of it can be nothing else than to turn our courts of law into courts of theology.

More than this, the Scriptures plainly and logically show the seventh day to be the Lord's day. The actual expression, "the Lord's day," is used but once in the Bible, and that in Rev. 1:10, saying, "I was in the Spirit on the Lord's day." But that text does not say what day of the week the Lord's day is. Other texts in the Bible, however, speak on the subject in such a way as logically to show what day is meant by the expression, "the Lord's day." The Lord himself said, "The Son of man is Lord also of the Sabbath." Mark 2:28.

The Lord also said, "The seventh day is the Sabbath." Here are two plain Scripture statements which may form the premises of a syllogism ; thus :—

Major : The Son of man is Lord of the Sabbath.

Minor : The seventh day is the Sabbath.

The only conclusion that can ever be drawn from these premises is, —

Therefore, the Son of man is Lord of the seventh day.

That conclusion is just as sound as these two statements of Scripture are, and the two statements of Scripture are as plain and positive on that subject as any two statements ever can be made. Forming an-

other syllogism, of which the above conclusion shall be the minor, we have this :—

Major : Whatever day it is of which the Son of man is Lord, is the Lord's day.

Minor : The Son of man is Lord of the seventh day. Therefore, the Lord's day is the seventh day.

This logic is unquestionable ; this conclusion is just as true as the Scripture itself. Therefore, as surely as courts undertake the interpretation of any statute enforcing the observance of the Lord's day, and enter upon an inquiry as to what day is the Lord's day, they will, if logical, be brought face to face with the fact as demonstrated by the word of the Lord himself, that the seventh day, and not the first day, is the Lord's day.

But it will probably be said that the courts are not to enter upon the interpretation of Scripture ; they are to interpret the law as it has been enacted, and as it is written ; and the law as enacted says that the first day of the week is the Lord's day, and that is as far as the courts can go. Suppose that be granted. Then that puts the United States Government into the place where it establishes an institution as the Lord's and enforces its observance, which not only the Lord has not established, but which is directly contrary to the plain word of the Lord upon the subject of this institution and its observance.

One or the other of these alternatives therefore the United States Government will be forced to adopt as surely as this bill or any one like it shall ever become a law. The Government will either have to become the authoritative interpreter of Scripture for all the citizens of the Government, or else it will have to put itself in the place of God, and authoritatively declare that observances established by the State and which it calls the Lord's are the Lord's indeed, although the word of the Lord declares the contrary. Is the United

States Government ready to take either of these positions? Is the Congress of the United States ready to force the Government of the United States to the alternative of taking one or the other of these positions?

The taking of either of these positions by the Government would be nothing else than for this enlightened nation, in this period of the nineteenth century, to assume the place, the power, and the prerogatives of the governments of the Middle Ages in enforcing the dogmas and the definitions of the theologians, and executing the arbitrary and despotic will of the church.

Thus, from whatever point this subject of Sunday laws may be viewed, it plainly appears that aside from the papacy there is no authority whatever for Sunday laws, nor even for Sunday keeping; and that the only effect that a national Sunday law can ever have, will be only evil, and that continually. Let Congress now and forever decidedly and utterly refuse to have anything to do with it in any way whatever; and let all the people, instead of sanctioning a movement to bring the national legislation down to the degraded level of the States on this subject, put forth every effort to bring the legislation of the States up to that place where it shall be limited as the power of Congress is limited by the declaration of the national Constitution, that it "shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

Now, in the name of law, Constitutional and statutory, moral and civil; in the name of enlightenment and progress; in the name of reason and the revelation of Jesus Christ, I seriously ask, Why should the people of such a nation as this, living under such a constitution as is our national Constitution, be asked to return to the papal system in the Dark Ages, which was only the inevitable outcome of the wicked scheme that was conceived in sin, — "the man of sin," — and brought forth

in iniquity, — “the mystery of iniquity,” — in the days of Constantine? Why should such a people as this, dwelling under the best Constitution and the most enlightened influences of all ages, be asked to return to the wicked system that characterized the Middle Ages?

No, sir ; the noble men who pledged their lives, their fortunes, and their sacred honor, when they established our Constitution, separated, as they supposed forever, this nation from all the wicked influences of the church-and-state systems of the colonies, of England, and of all other nations of all times. And under this Constitution, in true liberty, civil and religious, in genuine enlightenment and progress, this nation has deservedly stood as the beacon light of the world for a hundred years. Let this splendid nation ever still look forward and not backward ; let it still hold its honored place before all the nations ; and God forbid that by any such effort as is now being made in behalf of this Sunday law, this glorious nation should be brought down from her high place, and made to follow in the papal train.

Gentlemen, no further argument is needed to show that the Sunday laws of all the States, and the principles of the decisions of the Supreme Courts which sustain them, are wholly wrong, springing from the papal principle of church and state, and supported by the equally un-American principle of the omnipotence of the legislative power. They are totally subversive of American principles. Yet Sunday laws have never been, and can never be, sustained on any other principle. And this is only to say that which is the sum of all this discussion : There is no foundation in justice, in right, *or even in expediency*, for any Sunday laws, or Lord's-day laws, or Sabbath laws, UNDER ANY GOVERNMENT ON THIS EARTH.

APPENDIX A.

THE American Sabbath Union in its "Monthly Documents," has tried to make it appear that, in my argument before the Senate Committee, I admitted the right of the Government to make Sunday laws for the public good. The effort was not only made by the Association in its own documents, but the document and statements were reprinted in *Our Day*. To counteract the influence of this effort, as well as to make the point yet clearer, if possible, and expose another method which the Sunday-law workers employ to secure support for their movement, I insert the following—

OPEN LETTER

To the Rev. J. H. Knowles, Secretary of the American Sabbath Union.

DEAR SIR: In the monthly documents of the American Sunday Association, edited by yourself, you have chosen to charge me with insincerity; and you have also done your best to make it appear that I "admit all that the friends of the Sunday-rest law generally claim—the right of the Government to make Sunday laws for the public good."

You have garbled extracts from the report of my speech before the Senate Committee on the Sunday law, and then have italicized certain words and sentences in one passage to try to make it appear that I admit the right of the Government to make Sunday laws for the public good.

You have quoted from my speech the following words in the following way:—

"Whenever any civil government attempts to enforce anything in regard to any one of the first four commandments, it invades the prerogative of God, and is to be disobeyed (I do not say resisted, but disobeyed). . . . The State, in its legislation, can never legislate properly in regard to any man's religious faith, or in relation to anything in the first four commandments of the decalogue; *but if in the exercise of his religious convictions under the first four commandments he invades the rights of his neighbor, then the civil government says that is unlawful. Why? Because it is irreligious or because it is immoral? — Not at all; but because it is uncivil, and for that reason only.* [Italics ours. — ED.]"

It is in the italicizing of these words that your effort is made to make me admit what I continually and consistently denied before the committee, and do deny everywhere else. You have inserted in the above quotation three periods, indicating that a portion has been left out; and you know full well, sir, that in the portion which is there left out, is the following: —

"*Senator Blair.* — 'You oppose all the Sunday laws of the country, then?'"

"*Mr. Jones.* — 'Yes, sir.'"

"*Senator Blair.* — 'You are against all Sunday laws?'"

"*Mr. Jones.* — 'Yes, sir; we are against every Sunday law that was ever made in this world, from the first enacted by Constantine to this one now proposed.'"

"*Senator Blair.* — 'State and national alike?'"

"*Mr. Jones.* — 'State and national, sir.'"

Not only were these words there, but in that portion which you have printed following the italicized words, you yourself have printed my plain denial of the right of any nine hundred and ninety-nine people out of a thousand to compel the thousandth man to rest on the day on which the majority rest, in the following form: —

"*Senator Blair.* — 'The majority has a right to rule in what pertains to the regulation of society; and if

Cæsar regulates society, then the majority has a right in this country to say what shall be rendered to Cæsar.'

"*Mr. Jones.* — 'If nine hundred and ninety-nine people out of every thousand in the United States kept the seventh day, that is, Saturday, and I deemed it my choice and right to keep Sunday, I would insist on it, and they would have no right to compel me to rest on Saturday.'

"*Senator Blair.* — 'In other words, you take the ground that for the good of society, *irrespective of the religious aspect of the question*, society may not require abstinence from labor on the Sabbath, if it disturbs others?'

"*Mr. Jones.* — 'No, sir.'

"*Senator Blair.* — 'You are logical all the way through that there shall be no Sabbath.'"

That last expression of mine, saying "No, sir," is in accord, and was intended when spoken to be in accord, with Senator Blair's inquiring statement whether society may not require abstinence from labor on the Sabbath. My answer there means, and when it was spoken it was intended to mean, that society *may not* do so. As to its disturbing others, I had just before proved that the common occupations of men who choose to work on Sunday or any other day do not disturb and cannot disturb the rest of the majority who choose to rest that day.

Again: A little farther along you print another passage in which are the following words:—

"*Senator Blair.* — 'You would abolish any Sabbath in human practice which shall be in the form of law, unless the individual here and there sees fit to observe it?'

"*Mr. Jones.* — 'Certainly; that is a matter between man and his God.'"

Now, I should like for you in a monthly document, or by some other means, to show how by any fair means, or by any sincere purpose, you can, even by the use of

italics, make me in that speech admit the right of the Government to make Sunday laws for the public good. You know, sir, that in that speech I distinctly stated that any human laws for the enforcement of the Sabbath, instead of being "for the good of society, are for the ruin of society."

Again: You know, for you printed it in one of your documents, that Senator Blair said to me: "You are logical all the way through that there shall be no Sabbath." You know that in another place he said again to me: "You are entirely logical, because you say there should be no Sunday legislation by State or nation either."

Now, sir, I repeat, you have charged me with insincerity. Any one making such a charge as that ought to be sincere. Will you, therefore, explain upon what principle it is that you claim to be sincere in this thing, when in the face of these positive and explicit statements to the contrary and Senator Blair's confirmation of them to that effect, you can deliberately attempt to force into my words a meaning that was never there, that was never intended to be there, and that never can by any honest means be put there?

More than this: It can hardly be thought that Senator Blair will very highly appreciate the compliment that you have paid to his logical discernment, when in the face of his repeated statement that I was logical all the way through, you force into my words a meaning that could have no other effect than to make me illogical all the way through.

I have no objection to your printing my words as they were spoken; but I do object to your forcing into them a meaning directly contrary to that which the words themselves convey, and which they were intended to convey; and I further object to your so garbling my statements as to make it possible for you

to force into them a meaning that they never can honestly be made to bear.

In that speech also I said that if an idol-worshiper in this country should attempt to offer a human sacrifice, the Government should protect the life of its subject from the exercise of that man's religion ; that he has the right to worship any idol that he chooses, but that he has not the right to commit murder in the worship of his idol, and the State forbids the murder without any reference at all to the question as to whether that man is religious or whether he worships or not, with no reference to the commandment which forbids idol-worship, and with no thought whatever of forbidding his idolatry. I stated also that if anybody claiming apostolic example should practice community of property, and in carrying out that practice should take your property or mine without our consent, the State would forbid the theft without any reference at all to the man's religious opinions, and with no thought of forbidding the practice of community of property. You know that it was with direct reference to these words that I used the words which you have italicized. I there distinctly denied that the State can ever of right legislate in relation to anything in the first four commandments of the decalogue. But, if any man in the exercise of his rights under the first four commandments, and in this case under the fourth commandment, should invade the right of his neighbor, as I have expressed it, by endangering his life, his liberty, or his property, or attack his character, or invade his rights in any way, the government has the right to prohibit it, because of the incivility ; but with never any question as to whether the man is religious or irreligious, and with never a purpose or a thought of forbidding the free exercise of any man's right to work on any day or all days, as he chooses.

This is precisely what every State in this Union already does by statutes which punish disturbances of religious worship or religious meetings, or peaceable assemblies of any sort. But there is a vast difference between such statutes as these and the ones which you desire shall be enacted. These are strictly civil statutes, prohibiting incivility, and are far from anything like the enforcement of religious observances. The Sunday-law workers complain of the disturbance of their worship on Sunday. If they are sincere in this, why don't they enforce the laws already on the statute books prohibiting disturbance of worship? California, for instance, prohibits disturbance of worship, under penalty of five hundred dollars' fine and six months in jail. But instead of having such legitimate laws enforced, you propose to prohibit the disturbance of your worship on Sunday by compelling everybody to keep Sunday. Upon this same principle you would have the State forbid the offering of human sacrifices by an idol-worshiper, by compelling him to keep the second commandment. In short, the principle is that you would have the State prohibit incivility by compelling everybody to be religious. And you are so enraptured with this distorted view, that you have chosen in your sincerity and by *italics* to force me to sanction the wicked principle. But it will not work. I say always, If your worship is disturbed on Sunday or at any other time, let the State punish the person or persons who create the disturbance. Let the State punish them by such strictly legitimate statutes as the States already have on this subject. But let the State never attempt to prohibit disturbance of worship by trying to compel men to worship, nor attempt to prohibit incivility by enforcing religious observances. This is just what I had in view, and is precisely what I meant, in the words which you have italicized.

All this is further shown in the argument which I made, in that, immediately following the words which you have italicized, I proved that Sunday work does not disturb the rest or the worship of those who keep Sunday. And the conclusion of that is, therefore, that there is no basis for Sunday laws on that ground. This I prove by the fact that the people who make this the ground of their demand for Sunday laws, do not recognize for an instant that work on Saturday disturbs the rest or the worship of the people who keep Saturday. I there showed that if your work on Saturday does not disturb my rest or my worship, my work on Sunday cannot disturb your rest or your worship. I made this argument not only on this principle, but from actual experience. I know, from an experience of fifteen years, that other people's work on Saturday does not disturb either my rest or my worship on that day. There are Seventh-day Adventists in every State and Territory of this nation, in Canada, nearly every country of Europe, the Sandwich Islands, Australia, South America, China, South Africa, and other places. They all rest every Saturday ; they all keep it as the Sabbath unto the Lord. But no person has ever yet heard of a Seventh-day Adventist who ever complained that his rest on the Sabbath was disturbed by other men's work. Not only is this so, but the Seventh-day Adventists have organized churches in the great majority of the States and Territories of this Union. These churches are found in country places, in villages, in towns, and in cities. They meet for worship every Saturday ; and although, as everybody knows, Saturday is the busiest day of the week, in the midst of such busy cities as Chicago, Denver, San Francisco, Minneapolis, and Kansas City, these churches of Seventh-day Adventists assemble regularly for worship ; and no person has ever yet heard of any Seventh-day Adventists' making a complaint that their worship was

disturbed by the work, the business, or the traffic that is carried on by other people on that day. The fact is, our worship is *not* disturbed by these things.

Now, sir, if all the labor, the business, and the traffic that is done on Saturday, the day which is acknowledged by all to be the busiest day of the week, — if all this, in such cities as I have named, does not disturb our rest or our worship, will you please explain how it is that your rest and your worship are disturbed on Sunday, when there is not one one-thousandth part as much labor, or business, or traffic done on that day as is done on Saturday?

This, dear sir, is only an additional argument, but one which rests on the living experience of thousands of people every seventh day, conclusively showing that your whole theory and claim for Sunday laws break down utterly at every point.

ALONZO T. JONES.

APPENDIX B.

THE following letter from Cardinal Gibbons to Mr. D. E. Lindsey, of Baltimore, shows from the Cardinal himself, that the counting of all the Roman Catholics of the country in favor of the Sunday law on the Cardinal's indorsement, as Dr. Crafts and the Woman's Christian Temperance Union have done, was wholly unwarranted. This is exactly as I argued before the Senate Committee, and as we have argued everywhere else. We have never blamed Cardinal Gibbons for that which Dr. Crafts and the Woman's Christian Temperance Union put upon him.

“CARDINAL'S RESIDENCE,
408 NORTH CHARLES ST., Baltimore, Md.,
Feb. 27, 1889. } ”

“MY DEAR SIR: In reply to your favor dated Feb. 25, 1889, duly received, His Eminence Cardinal Gibbons desires me to write to you, that whatsoever countenance His Eminence has given to the ‘Sunday law’ referred to in your favor, as he had not the authority, so he had not the intention, of binding the archbishops, the bishops, or the Catholic laity of the United States. His Eminence bids me say to you that he was moved to write a letter favoring the passage of the bill, mainly from a consideration of the rest and recreation which would result to our poor overworked fellow-citizens, and of the facility which it would then afford them of observing the Sunday in a religious and decorous way.

“It is incorrect to assume that His Eminence, in the alleged words of Senator Blair set forth in your favor, ‘signed the bill, thus pledging seven million two hundred thousand Catholics as indorsing the bill.’

“I have the honor to remain, with much respect,
yours faithfully,

J. P. DONAHUE,
“Chancellor.

“To D. E. Lindsey, Esq., 708 Rayner Avenue, Baltimore, Md.”

SUNDAY LAWS IN THE UNITED STATES.¹

BY JAMES T. RINGGOLD, ESQ.

[From the *American Law Register and Review*, Philadelphia, Pa.]

THE constitutionality and the construction of "Sunday laws" have been considered by the courts of this country in nearly one thousand cases. So far as the mere weight of authority can settle anything, it is settled that such laws are valid under the Federal Constitution, and under the constitution of every State in which their validity has been contested.

There are traces of a union of Church and State elsewhere in the body of American law (as in statutes against blasphemy, qualifications required of witnesses, etc.), but Sunday laws are by far the most conspicuous portion of this inheritance of ours from the English form of government.

To say that Sunday laws represent a union of Church and State, and that the weight of authority sustains such laws in the United States, may sound to some like an impeachment of our judiciary, because the absolute separation of the two is commonly regarded as an axiom of American politics. Yet both propositions are demonstrable.

The second, of course, is established by a mere counting

¹In a book entitled, "Sunday: Legal Aspects of the First Day of the Week," by the present writer (Jersey City: Frederick D. Linn & Co.), an effort has been made to collect and classify all the cases of importance on the subject which have been decided in England and America to date (1891). In the following article, the intention is to cover the entire ground as thoroughly as may be, but it has not been deemed necessary to cite many cases which simply go to the same point. Under each branch of the discussion the aim is to present a typical case, the ruling or *dictum* of which fairly represents the average spirit of the cases of its class. So far as the writer knows, no argument has yet been presented in favor of Sunday laws which is not noticed here, and it has been his conscientious endeavor to give them all their best and strongest expression.

of the cases. The reading of them is enough to establish the first. Occasionally an objection is made to Sunday laws as interfering with the rights of property, etc. But in every case their constitutionality has been assailed, and in most cases it has been exclusively assailed on the ground that they are infringements of religious liberty. And not one of the judges who have sustained them on other than religious grounds has ever ventured the assertion that they are passed, or that their enforcement is asked for, on any other ground than this. And a statute which is passed or the enforcement of which is asked for on religious grounds represents a union of Church and State, *pro tanto*, no matter what other grounds the courts may allege for its enforcement.

It is difficult to formulate a general statement in American constitutional law, outside of the Federal system, because the language of the State constitutions differs widely, and the language of the statutes on any particular subject is equally at variance. The force of this proposition is lessened, but it is by no means nullified by the interesting fact discovered and noted by Mr. Stimson (see the preface to his invaluable "American Statute Law"), that there are in the Union, "streams of legislation," that is to say, groups of States (of which he finds three, with some anomalies) whose legislation follows a uniform line, different from that followed by States of another group.

One of Mr. Stimson's "streams of legislation" is followed by twenty-nine States, whose constitutions declare in substance that no "preference" shall be given by law to one religious sect over another. If we admit that there is a like intent inspiring the somewhat diversified phraseology of the provisions for "religious equality," etc., in States outside of this stream—as we must admit, unless we are prepared to admit that a union of Church and State may be effected in such States—then we may frame this general statement regarding Sunday laws, as the result of the decisions to

date: It is concluded that they would be invalid in any State, if they gave a "preference" to one religion over another, and it is denied that they give any such preference.

The constitutionality of a statute may be regarded from two standpoints—that of its design, and that of its effect. "Design" here must not be confounded with "motive." The legislature may be influenced by corrupt motives in the accomplishment of a design within its constitutional authority. Nothing is better settled than that upon this consideration the courts will never enter.¹ But suppose the legislature, by no means corruptly, but in all honesty and sincerity, aims at the accomplishment of a design which it is forbidden by the Constitution to accomplish. And let us strengthen the case by assuming that if the statute passed with such an aim is sustained by the courts, the result will be the accomplishment of the unconstitutional design. Are the courts justified in sustaining the statute merely because some other purpose is incidentally effected, at which the legislature might constitutionally have aimed?

Now, religion concerns itself with two things, belief and conduct, and the distinction between one religion and another is two-fold—one requires a certain belief and certain conduct which the other forbids or does not require. Hence, it is not enough to say concerning the Sunday law: "What religion or religious creed or dogma is inculcated in that statute? or what religion is prohibited? . . . Does it ask that any citizen shall believe in the God of the Bible or its teachings, or the doctrines of the Bible, the Koran, or of Confucius, or the Talmud, or the Old or the New Testament? Certainly not;" because, though no religious creed or dogma be inculcated, yet a "preference" may be given by a statute to one religion over another by the mere regulation of conduct. And this preference is given whenever conduct

¹ *Ex parte* Mc Cardle, 7 Wal., 506, 514; *Doyle v. Continental Ins. Co.*, 94 U. S., 535.

² *Sundstrom's Case*, 25 Tex. App., 133. See also *Specht's Case*, 8 Pa. St., 325.

is regulated on religious grounds, according to the special prescription of any religious sect, or when the design of a statute is to punish an offense against religion *as such*. That Sunday laws do embody the proscription of a certain sect for the "observance" of that day is indisputable. Are they passed on religious grounds? Are they designed to punish offenses against religion as such? Blackstone classifies them with the provisions against "apostasy," "heresy," "non-conformity," and the like, all of which things he calls "offenses against God and religion."¹

This classification is followed in the "Codes" and Digests of Statutes of nearly every State and Territory in the Union. In dealing with the Sunday laws the courts uniformly allude to them as provisions against "profanation" or "desecration."² But only a sacred thing can be profaned or desecrated; and whether a thing be sacred or not is altogether a matter of religion. So that to punish profanation or desecration is to punish an offense against religion *as such*.

That Sunday laws are passed on religious grounds is perfectly well known to every reasonable person. Mr. Tiedeman correctly says: "The most common form of legal interference *in matters of religion* is that which requires the observance of Sunday as a *holy day*. In these days the legal requirements do not usually extend beyond the compulsory cessation of labor, the maintenance of quiet upon the streets and the closing of all places of amusements; *but the public spirit which calls for the compulsory observance of these regulations is the same which in the colonial days of New England imposed a fine for an unexcused absence from divine worship*. Although other reasons have been assigned for the State regulation of the observance of Sunday in order to escape

¹ Bk. IV., ch. 4.

² "e. g.," *Wood v. Brooklyn*, 14 Barb., 425; *Lindenmuller's Case*, 33 Barb., 548; *Nenendorff v. Duryea*, 69 N. Y., 557; *Nesbit's Case*, 34 Pa., 86.

the constitutional objections that can be raised against it if it takes the form of a religious institution, those who are most active in securing the enforcement of the Sunday laws *do so because of the religious character of the day*, and not for any economical reason. . . . The effectiveness of the laws is measured by the influence *of the Christian idea of Sunday as a religious institution.*"¹ So says Judge Cooley, "It is clear that these laws are supportable on authority *notwithstanding the inconvenience which they occasion to those whose religious sentiments do not recognize the sacred character of the first day of the week.*"² And what is this but saying, and saying with perfect correctness, that Sunday laws simply embody the views of those who *do* recognize the "sacred" character of the first day of the week, and are therefore passed on religious grounds alone? "The Jew," says Judge Cooley in a previous paragraph, "may *plausibly* urge that the law *discriminates against his religion*, and, by forcing him to keep a second Sabbath in each week, unjustly, though by indirection, *punishes him for his belief.*" Why "*plausibly?*" Is not the discrimination perfectly plain? May it not be *conclusively* urged?

But the fact is clear enough, without authority, that Sunday laws embody a religious dogma, and that they constrain the citizen on religious grounds alone. There are two sides, again, to this religious character of Sunday laws—the side of the constringer and the side of the constrained. So far as the latter is concerned, the real spirit of such legislation has been frankly stated by a North Carolina judge, who says that work on Sunday "offends us not so much because it disturbs us in practicing for ourselves the religious duties or enjoying the salutary repose or recreation of that day as *that it is in itself a breach of God's law and a violation of the*

¹ "Limitations of Police Power," pp. 175-6, see 76. The italics are those of the present writer, here and in other citations.

² "Constitutional Limitations," p. 585, ch. xiii (ed. 1890).

party's own religious duty."¹ A plainer truth, one more clearly and fully appreciated by Sunday law advocates, while they seek to ignore and even deny it, was never printed. So far, then, as the constrained are concerned, the object of Sunday laws is to compel them to perform a religious duty, and to punish an offense against religion *as such*. And as this religious duty is exacted by some religious communions and not by all, the "preference" among religions is established.

In strict accordance with this view are the New Hampshire decisions on the point of what constitutes a "disturbance" of one person by another on Sunday. At first sight it might seem unobjectionable to provide that no work should be done on Sunday "to the disturbance of others," as is done in New Hampshire. But the value of the qualification, if it had any, is destroyed by the judicial construction. The Court has taken the North Carolina view that the statute was intended to prevent "acts calculated to *turn the attention of those present from their appropriate religious duties to matters of mere worldly concern,*"² and hence it is settled in that State that business, however quietly conducted on Sunday, "disturbs" those engaged in it, and that a man is "disturbed," though he be willing and even anxious to do business on Sunday, by the doing of it, or by any act, however voluntary, which *tends to distract him from religious observances.*"³

There is no mitigation, then, of Sunday law rigor in the use of the proviso about disturbance. Nor is the New Hampshire Court to be reproached for pandering to the spirit of Puritanism in construing its law, proviso and all, as intended to apply to individual conduct, without any reference whatever to its actual effect on others. How the words "to the

¹ Williams's Case, 4 Sec. 400.

² George v. George, 47 N. H. 27.

³ See Varney v. French, 19 N. H., 223; Thompson v. Williams, 58 Id., 248.

disturbance of others" came to be inserted in the New Hampshire statute it may not be practicable to ascertain ; but there can be no doubt that they would have been promptly stricken out if it had been suggested to the framers of that statute that such words might be taken to mean that a man might do as he pleased on Sunday if he only did it quietly. There is no doubt that the Court, as in duty bound, gave effect to the legislative intent in its view of the objects of the Sunday law.

There are other considerations which may be noted here in connection with the subject of "disturbance." Even if the New Hampshire Court were wrong, and the word was meant to apply to others than the doer of the act in question, there would be no saving efficacy in the phrase. We are at once confronted with the difficulty — who is to determine whether or not one man is disturbed on Sunday by the act of another? If the first man's assertion is to be taken as conclusive on the subject, of course there is no use in having such words in the statute. But when we admit that the question of disturbance *vel non* is one for judicial determination in any given case, we see at once that this qualification involves a fatal confession of the nature and purpose of all Sunday laws. For, without any statutes, wherever the common law, or any other logical system of jurisprudence prevails, that is, among any civilized people, work which "disturbs" others is unlawful at all times. To "disturb," in the eye of the law, is to infringe on some right or privilege which it creates or recognizes. When, therefore, the law recognizes a privilege as existing on Sunday which exists on no other day, and considers that acts will amount to a "disturbance" of others on Sunday which will not amount to such disturbance on any other day, we must ask ourselves what this special privilege of Sunday is, which is thus honored. It cannot be the right "peaceably to assemble." In every American constitution this right is guaranteed expressly or

impliedly, and it exists at all times. Nor does it matter what the purpose of assembling may be, unless it be tainted with treason. People may assemble at any hour of the day or night, and talk religion or infidelity, or politics or dress reform, and if anybody disturbs their assembly, the police will lock him up. The right of assembly and the question of what constitutes a disturbance of, or an infringement of, that right does not in the smallest degree depend on the object of the assembly, as religious or otherwise, nor does it depend in the smallest degree on the time of the assembly, as on Sunday or Monday. The standard of the law, its test of the right and its violation is the same for all assemblies and all periods. What special "right" is it, then, which is disturbed on Sunday by certain acts which disturb no rights on any other day? Let a Pennsylvania Court answer for us: "There are other rights intimately associated with rights of conscience which are worth preserving. *The right to rear a family with a becoming regard for the institutions of Christianity, and without compelling them to witness hourly infractions of one of its fundamental laws,*"¹ — that is to say, Sunday statutes are passed to compel one man to observe a "fundamental law" of Christianity for the benefit of another man's children. But a statute passed for the purpose of enforcing a law, fundamental or otherwise, of any particular religion gives a "preference" to that religion, unless an equal privilege be accorded to a like law of every other religion.

These authorities are adduced, not in order to establish the proposition that Sunday laws embody a preference of one religion over another, but merely, as is proper in an article written for a law magazine, to show that this fact has, at least in some cases, been frankly recognized by the courts. It would be equally a fact if all the courts in the country denied it. All the decisions of all the courts cannot make black white. The decision of a court may settle whether or not a Sunday

¹ Johnston's Case, 22 Pa., 102.

law is enforceable, but it can have no effect upon the question of the origin, or the inspiring motive of such legislation. So the more numerous decisions (more numerous especially among the later cases) which take what is known as the "secular view" of Sunday laws, are of no account whatever as evidence of the correctness of that view, because that is a question not of law at all, but of historic fact.

It has been said that the law will prevent the disturbance of a meeting without regard to its character as religious or otherwise. Like many other things in law, this disregard results from its refusal to attempt impossibilities. The law has no test whereby to determine whether a meeting is religious or not. This being claimed as the character of a spiritualist camp-meeting in a Sunday-law case, the court left the point to the jury.¹ The "unseemliness" of controversies over such a point, the impossibility of settling any rule for deciding them, the purely religious nature of the dispute, are self evident. It is a mere evasion to leave such a question to a jury. An American jury has no authority to decide any question of which American law can take no cognizance. Neither jury nor judge can decide in this country the right and title of any system of belief to be called religious. It is a usurpation for a jury to render a verdict on such a question. It is quite as much a usurpation for a judge to render and enforce a judgment on such a verdict by a jury of others as it would be for him to do so after sitting as a jury himself.

But even were it practicable for American law to discriminate between a religious assembly and any other, in the protection afforded against disturbance, no reason whatever exists for attempting such a discrimination. The simple fact is—though, like many other facts, it is constantly "blinked" in the discussion of this subject—that a religious assembly is disturbed by just, precisely the same acts

¹ Feital v. Middlesex R. R., 109 Mass., 398.

which would disturb any other assembly, and by no other acts whatever. From this point of view all sorts and conditions of men are alike. The orderly and regular conduct of a caucus and a church service, the ability of those present to keep abreast of what is going on, and to influence others—these things require precisely the same police conditions in the one case as in the other.

This, again, is not a matter of law, but fact. The Seventh-day Adventists, that remarkable people whose headquarters are at Battle Creek in Michigan, lately protested before Congress through their clear-headed and eloquent representative, Mr. Alonzo T. Jones, against the attempt of the great religious organizations of the country to have a Federal Sunday law enacted. Mr. Jones consistently—he and his people are nothing if not consistent to the core—disclaimed any desire to have his “seventh day” substituted for Sunday, declaring, with perfect correctness, that all such legislation involved that union of Church and State which his organization is pledged to oppose with unrelenting hostility. But he also laid special stress on the fact that his brethren were not disturbed in any manner whatever in their “seventh day” observances by other people’s pursuit of their regular occupations—and therefore they did not need the law, even if they felt it right to ask its aid, in order to enable them to observe their day according to their wish. We have among us Jews and Seventh-day Baptists, and their experience is the same—that no “Sunday law” is needed to protect them in the full enjoyment of their Scriptural Sabbath. We have also Roman Catholics and Episcopalians who observe such fasts and feasts as Lent, Christmas, Good Friday, “saints’ days,” etc., by holding religious assemblies. Not one of them has ever complained that these assemblies are in any wise disturbed by the steady course of the world’s daily work and traffic.

The case is still stronger when we come to those who

are specially interested in Sunday laws, to whose agency such laws and their spasmodic enforcement are due. These may be broadly grouped as "Evangelicals." Such persons make a regular practice of holding "prayer-meetings" on week-days. The claim has never been advanced that these assemblies are disturbed by the ordinary labor of those who fail to attend them. So, also, with the great "revivals" to which some of them are addicted. Day after day, every day and night in the week, they assemble for religious purposes on such occasions. It has never been remarked that the week-day services are disturbed any more than those held on Sunday—that they are any less satisfactory to those who conduct them, or less profitable in the ratio of "conversions" to attendance.

So that we see our proposition, that nothing can disturb a religious meeting which does not disturb any other kind of meeting, proven by daily experience of the life around us. And we see further that, as the disturbance of religious meetings at any time will be prevented by the "police-power" of the State, no "Sunday law" is needed to prevent such disturbance. And we are thus brought face to face with the truth of the matter—namely, that the only disturbance involved in Sunday work, is the disturbance of one man's right to constrain another to a certain line of conduct as a religious duty; and that Sunday laws are therefore passed with a religious purpose, and designed to punish offenses against religion *as such*, and so constitute a "preference" by the State of one religion over another.

As this true character of Sunday laws becomes more and more evident to the American people, the demand for their repeal grows stronger and stronger. Nor is this demand to be thwarted by quibbling over what constitutes a union of Church and State. Like other unions, this may be complete or partial. The only instance in history of a complete union of the two, or an absolute identity of Church and State, was

the polity of the Hebrews in Palestine.¹ But in every civilized country the union exists to a greater or less extent. It was to guard against it, that all such provisions as those forbidding a preference among religions have been inserted in the American Constitutions. It exists in the very teeth of such provisions wherever a Sunday law is found.

The advocates of these laws appreciate their danger, and hence we see in some later cases an invention known as "the holiday theory" of Sunday laws brought to the rescue of a failing cause. Said an Arkansas judge: "The power of the legislature to select a day as a holiday is everywhere conceded. The State from the beginning has appropriated Sunday as such."² And he added that the same principle which upholds the right of the State to close its offices on certain days authorizes it "to prescribe a penalty for the violation of the Sunday law." The extract *ante* from Mr. Tiedeman sufficiently refutes this parallel so far as it affects the question of the origin and purpose of Sunday laws. Its fallacy is equally apparent from their contents. Who ever heard of such a thing as a compulsory holiday? Who ever heard of a statute which established a public holiday and closed all places of public amusement, and provided a penalty for those who should undertake to amuse themselves in private upon the day in question? Desperately as some are clinging to this last spar, it must share the fate of the other wrecked arguments by which it is sought to support Sunday laws on constitutional grounds.

There are cases, however, which take "a secular view" of such legislation without going so far as to claim that it makes a holiday of Sunday. According to these "the evident object of the statute was to prevent the day from being employed in servile work, which is exhausting to the body, or in merely idle pastime, subversive of that order,

¹ See Milman's "History of the Jews."

² Scoles's Case, 47 Ark., 476.

thrift, and economy which is necessary to the preservation of society.”¹

Let us consider these clauses separately. Has it ever been claimed that it is within the power of an American legislature to compel a man to abstain from earning his living by “servile labor,” because the legislature in its wisdom, considers such labor as “exhausting to the body” — ever claimed, that is, except in connection with Sunday laws? Who made of the legislature a physician to order off a man from any labor, “servile” or otherwise, because of its effect upon his body? Is not the liberty of labor at will, part of the inheritance of every citizen of a free country which he “comes into” when he attains his majority? The interference with labor on account of its “exhausting the body” is parental, and can never be justified under any other than a parental government. So that if this interference were necessary or even desirable, it would not be practicable in any State whose constitution contains a guaranty of personal liberty.

As a matter of fact, however, it is neither necessary nor desirable, though many of the cases assume that it is both; and Sunday-law advocates of every kind are prone to start with the statement, as if it were an axiom of thought, that “we are so constituted physically that the precise portion of time indicated by the Decalogue, must be observed as a day of rest and relaxation, and nature, in the punishment inflicted for a violation of our physical laws adds her sanction to the positive law promulgated at Sinai.”² Yet this statement, so often made in substance on the Bench and elsewhere in order to justify Sunday laws, is absolutely without any foundation whatever, and is absurd on its face and is contradicted by the most familiar facts.

It is absurd on its face. The amount of rest required and the advisable periodicity of it is the result of three factors —

¹ *Landers v. R. R.*, 12 Abb. Pa. (N. S.), 338.

² *Lindenmaller's Case*, 33 Barb., 548.

the man, his work, and his environment; and, as the first of these is never the same in any two instances, the result is never the same. To attempt to lay down a uniform rule on this subject is as preposterous as it would be to require everybody to eat the same amount and the same kind of food every day. What is said above, about the punishments of "nature" applies here as it was not intended to apply. The whole matter belongs to her domain and is subject to *her* laws alone. The time for rest is proclaimed by her when she makes a man tired, and his punishment may safely be left in her hands, if he disobeys her mandate to rest.

Of course there are no facts adducible which even appear to sustain so monstrous a proposition as that everybody always needs the same amount of rest at the same interval. The facts are all the other way. Preachers who work hard all the time, and do double work on Sundays; doctors who can never rest at any stated interval; lawyers, journalists and others, who frequently work day in and day out for months without a holiday—all these compare favorably for robustness and longevity with that conscientious Sunday restor, the farmer. Races of men, as the Greeks and Romans of old, the Chinese, Japanese, etc., to whom the idea of resting at stated intervals never occurred, yet have survived and flourished. Not long ago the Methodist Bishop, Andrews, gave it out as something "he could not understand" that they had no Sabbath in China, and yet the laboring men lived to old age! Of course the good Bishop shut his eyes at home, and opened them in China. He was under that delusion so common with men of his calling that the existence of a law is proof of its enforcement. He did not know, or chose to ignore the fact, that thousands of his fellow-Americans who know no Sabbath are as healthy, long-lived, and at least as active in the world's work as the strictest Sabbatarian in his communion.

Besides negating the arguments by which Sunday laws

have been defended, and calling attention to the positive objection to them as the embodiment of a union of Church and State, it may be well to point out another undesirable characteristic of such legislation. Although Sunday laws do not make the day a holiday, yet they have this in common with laws establishing holidays—that they tend to encourage among the people the conception that idleness is a good thing in itself, to be sought for its own sake, and that the State is conferring a great boon upon them by allowing them the opportunity of indulging in it. No more immoral or dangerous doctrine could be preached by any legislation than this. Rest is necessary; but its value lies not in itself; it is valuable only in so far as it fits us better for our work. Public holidays may have a historical value: that their general effect on the manners of the mass is demoralizing, few will deny. Leisure is a dangerous possession in the hands of the wisest and best. Let the managers of factories, the heads of schools, and the like be heard to testify to the slipshod character of “Blue Monday’s” work, and we shall appreciate the profundity of that unknown philosopher who gave it as his decided conviction that the crying need of this country is not more holidays, but more days to get over them.

Industry is a virtue; idleness is a vice. But our Sunday laws make a complete topsy-turvification of this fundamental principle of morals, for fifty-two days in the year. On these days, industry is branded as a crime, and idleness is required as a condition of good citizenship. That the immoral lesson thus taught is correctly learned, is shown by the constant demand for more public holidays, and for limiting the hours of work by the State, and other laws which are strangely misnamed as “labor legislation,” being in reality, like the Sunday laws, legislation for the promotion of idleness. And thus we have another illustration of the great principle, and the evil tree of Sunday law brings forth after its kind.

A word may be said in reference to the "merely idle pastimes, subversive of that order, thrift, and economy which is necessary to the preservation of society," alluded to in a previous extract.¹

It is of course self-evident that no pastime can have this subversive effect, on Sunday, which has not the same effect on any other day. And it is equally self-evident that with the pastimes of its people, no American legislature has authority to meddle on the ground of its subverting effects on thrift or economy; while as to the subversion of order, no Sunday law is required to justify interference by the police at any time, either with pastime or work.

But the use of this word "pastime" is worthy of attention, because it alludes to a certain portion of all Sunday laws, which by its very presence utterly refutes the theory that these laws are intended for the secular benefit of the people, and which has been already commented upon. A Sunday law, to be complete, must combine the two prohibitions of work and play; if a law does not prohibit both, whatever else it may be, it is not a Sunday law. And as play is the very best known antidote to the corrosive effects of work, it follows that no Sunday law is intended to guard against these effects. And it may be added that there is good ground for the claim that those who are interested in the existence and enforcement of Sunday laws, if they had to part with either prohibition, would a great deal rather have the prohibition on work removed than the prohibition on play. They think that a Sunday law prohibiting play alone would be more likely indirectly to drive people into church on Sunday, which is their minor purpose in having such laws. Being themselves essentially of a gloomy and non-playing cast of mind, they consider that the prohibition of other people's play would naturally tend more to make those people of a gloomy cast of mind for the time being, than the prohi-

¹ *Landers v. R. P., ante.*

bition of work, and therefore would tend more strongly to force others into their way, which is their main and central object in Sunday laws and in life generally.

The survey of the subject would not be complete without some reference to the savings of "necessity," and "charity," which are made in all Sunday laws.

The very presence of the word "charity" is sufficient to betray the true nature of these laws as religious dogmas enacted into statutes. The interpretation of the word has, of course, to be made accordingly. And hence it is correctly said that "*the means which long established and common usage of religious congregations show to be reasonably necessary to advance the cause of religion, may be deemed works of charity.*"¹ But, apart from its fatal disclosure of the religious character of the statute, the presence of this word, like that of "necessity," introduces a degree of uncertainty as to the application of the law, which it is safe to say would cause the courts to hold it void altogether if it were anything else but a Sunday law. Well has a learned judge of Vermont observed, "The statute excepts all acts of necessity and charity. These are lawful, and who is to judge what are such? If the jury, it will depend on the religious opinions of each jury, and of course be pregnant with the utmost uncertainty. If the court, as matter of law, then *it will nearly convert a bench of laymen into an ecclesiastical council, for 'necessity' and 'charity' in connection with the Sabbath must very much depend upon the creed or religious belief of the individual to whom the question is submitted. . . . How ungracious for a court to mark the law upon this duty for all denominations to be governed by, and with judges usually belonging to different religious societies. It would be like a synod composed of the dignitaries of several sects.*"²

The uncertainty involved in the use of the word "charity," apart from the religious aspect of the question, may be

¹Dale v. Knapp, 98 Pa., 389.

²Lyon v. Strong, 6 Vt., 236.

illustrated by the preceding case.¹ This held that a contract of subscription towards the erection of a church was valid as an act of charity. If so, on what ground is the actual building of the church on Sunday unlawful? Or the quarrying of the stone for its walls, or the dressing of timber for its interior? In a word, where are we to stop in the degree of closeness of connection between the act in question and "the advancement of the cause of religion?" It does not seem possible that the subtlest judicial ingenuity will succeed any better in the future than it has in the past, in affording a satisfactory answer to this question.

But if an impenetrable cloud is cast over the force and application of the Sunday law by the presence of this word "charity," on what a bottomless, trackless sea are we launched by the use of that other word "necessity!" The tossings and flounderings, the hopeless "seeking after a sign," the vain beating toward a harbor which does not exist, which we find in the cases on this subject are really painful to a sensitive mind. Among others, the eminent Judge and Senator Thurman, of Ohio, once wrestled with this subject in a long opinion.² But the outcome of it all is that there is no way of defining "necessity," though the learned judge does not say this in so many words. In the first place, we do not know whether necessity is a question of law or of fact, or of both combined.³ And secondly, it is unsettled whether the necessity must be that of the doer of the act or whether it is sufficient if his doing of it was a necessity to somebody else.⁴

It is, however, when we leave these preliminary questions, and come to consider the nature of this necessity — of which

¹ Dale v. Knapp, *supra*.

² See Mc Gatricks v. Wason, 4 O., 566.

³ It is one of fact in Indiana, Edgerton's Case, 68 Ind., 588; of law in Vermont, Lyon v. Strong, 1 Vt., 219; and of law and fact in Alabama. Hooper v. Edwards, 25 Ala., 528.

⁴ In England, a barber is not excused by the fact that his Sunday shaving was a necessity for his customer. Phillips v. Tuness, 4 Cl. & F., 234. But it is said that here the apothecary is justified in selling a medicine which is a necessity to the sick. L. & N. R. R.'s Case, 89 Ind., 291.

we are to determine the existence or non-existence in any given case — when we study the *thing in itself*, as some philosophers say, that we fully appreciate the hopelessness of interpreting or applying a Sunday law with any degree of uniformity or fairness. Only a few points need be mentioned to vindicate this position. We are told that the necessity need not be “absolute,”¹ yet it must be “imperious,”² and mere “convenience” is not enough;³ that it varies with the individual, so that a rich man might be punishable for working on Sunday to save his property from destruction, while a poor man would not be,⁴ and also “with the exigencies of trade;”⁵ and so on and so forth. Here, as under all of our preceding heads, the illustrations might be multiplied indefinitely without materially strengthening the moral, which is that a “chaos of thought and passion all confused” has inspired the enactment of Sunday laws, stimulates their enforcement, and manifests itself in every judicial attempt to either justify, explain, or apply them.

Baltimore, Md., Oct. 20, 1892.

¹ *Flag v. Millbury*, 4 Cush., 243.

² *Allen v. Duffie*, 43 Mich., 1.

³ *McGatrick v. Wason*, 4 O., 566.

⁴ *Ohmer's case*, 34 Mo. App., 115.

⁵ See *Whitcomb v. Gilman*, 35 Vt., 297.

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6

THE CAPTIVITY OF THE REPUBLIC

A REPORT OF

HEARING BY HOUSE COMMITTEE ON COLUMBIAN
EXPOSITION, JANUARY 10-13, 1893

AND THE PRESENT STATUS AND EFFECT OF
THE LEGISLATION ON

SUNDAY CLOSING OF THE WORLD'S FAIR

"Secular power has proved a satanic gift to the Church, and ecclesiastical power has proved an engine of tyranny in the hands of the State."—*Philip Schaff*.

BY ALONZO T. JONES

INTERNATIONAL RELIGIOUS LIBERTY ASSOCIATION

1893

To the
more than 350,000 citizens
of the United States
who signed their names to the petition on page 4
this report is addressed
and
RESPECTFULLY DEDICATED

. . . THE . . .

CAPTIVITY OF THE REPUBLIC.

FEBRUARY, 1863, there was begun an organized movement by a religious combination, composed of the "evangelical" churches of the country, to get the government of the United States committed by direct legislation to a recognition of "the Christian religion," and a national adoption and enforcement of Sunday as "the Christian Sabbath," or Lord's day. They proposed first to accomplish their purpose by an amendment to the national Constitution, declaring this to be a "Christian nation," and "so placing all Christian laws, institutions, and usages upon an undeniable legal basis in the fundamental law of the land."

In 1888, May 21, Senator H. W. Blair introduced "A bill to secure to the people the enjoyment of the first day of the week, commonly known as the Lord's day, as a day of rest, and to promote its observance as a day of religious worship." And the 25th of the same month he introduced a joint resolution to amend the national Constitution so as to establish "the principles of the Christian religion" as the religion of the nation. These two pieces of legislation embodied the wishes of this religious combination; and immediately there was a strong effort made all over the country to secure the passage of the measures,—especially the bill establishing and enforcing the observance of Sunday.

To this movement in all its phases and all its purposes, we have been uncompromisingly opposed from its very beginning. Accordingly, as soon as these measures were proposed in Congress, we took steps to counteract it as far as possible. In order to reach Congress the most effectually, we circulated a petition, which was in effect, and was intended to be, a remonstrance against anything of the kind forever. That petition runs as follows : —

“To the Honorable, the Senate of the United States [Duplicate to the House of Representatives] :

“We, the undersigned, adult residents of the United States, twenty-one years of age or more, hereby respectfully, but earnestly petition your Honorable Body not to pass any bill in regard to the observance of the Sabbath, or the Lord’s day, or any other religious or ecclesiastical institution or rite ; nor to favor in any way the adoption of any resolution for the amendment of the national Constitution, that would in any way tend, either directly or indirectly, to give preference to the principles of any religion or of any religious body above another, or that will in any way sanction legislation upon the subject of religion ; but that the total separation between religion and the State, assured by the national Constitution as it now is, may forever remain as our fathers established it.”

The Breckinridge bill to establish compulsory Sunday observance in the District of Columbia, by act of Congress, and also a bill to prohibit the delivery of ice in the District of Columbia on Sunday, were opposed in the same way.

To this petition, or remonstrance, we obtained more than *three hundred and fifty thousand bona-fide* individual signatures. By these and diligent efforts before congressional committees, the Blair legislation was delayed till it died, and the Breckinridge bill was defeated.

When the demand was made by this religious combination (which was now grown so as to embrace all the leading religious bodies in the country) that Congress should close the World’s Columbian Exposition on Sunday, this too was opposed with the former protests, and with the following one direct : —

"We, the undersigned, citizens of the United States, hereby respectfully, but decidedly, protest against the Congress of the United States committing the United States Government to a union of religion and the State, in the passage of any bill or resolution to close the World's Columbian Exposition on Sunday, or in any other way committing the Government to a course of religious legislation."

A hearing was held by the House Committee having the matter in charge, April, 1892, at which we presented arguments on the line of these protests.

While we were circulating these petitions, many men were met who would not believe that there was enough of importance to the matter to sign their names to the petition, even when they believed that the petition was all right in itself. They would say, "I believe all that; but it is not of enough importance to pay any attention to. I would not take the time to sign my name to it, although I am in favor of all you are saying. No such thing as that will ever be done. There is not a bit of danger of it." And because there were so many of that kind of people who did not believe that it would ever be done, it *was* done. And when they found out it was done, they began to try to have it undone. They began to wake up to see that they were mistaken, and that it had been done; and then seeing their mistake, they began trying to retrieve it by asking that the World's Fair should be open on Sunday.

But our petitions could no more be used for opening the Fair on Sunday than for shutting it on Sunday, as they were against Congress ever having anything to do with the question of Sunday in any way; and for the additional reason that the reasons given for congressional action in opening the Fair were precisely the reasons that had been given for congressional action in closing the Fair. The Fair was closed for religious reasons only; and the same religious reasons were given for opening it. Therefore as our petitions and our work were against Congress ever touching any religious

question, or any religious observance, or any religious institution, for *any reason*; and against its ever touching any question for *religious* reasons; it followed that neither our petitions nor our work could be cast for *opening* the Fair, any more than for *shutting* the Fair. Our petitions and our work were all, and always, against Congress having anything to do with the question in any way, *on constitutional grounds and for constitutional reasons*. And when Congress had taken the step, and had done what it did, our petitions and our work were to have Congress take back the step and undo what had been done, *because* the step that had been taken and that which had been done, *was wholly unconstitutional*. So that our work, our petitions, and our principles were the same from beginning to end.

REASONS FOR OPENING.

The organized movement for *opening* the Fair on Sunday originated in Chicago. The Chicago *Herald* started it, and the city council of Chicago took it up, and drafted a memorial to Congress, which the city council, with the mayor at its head, as representatives from the city of Chicago, took to Washington, and presented, the first day of four days' hearing. This memorial had the endorsement also of the Directory of the Fair. Some of the reasons that were given upon which they asked that the Fair should be opened on Sunday, we will now give:—

“The wish of the Council is,—

“That the gates of the World's Columbian Exposition be not closed Sunday.

“That all machinery be stopped, and that noise be suppressed that day, *to the end* that quiet may prevail, which is in keeping with the Sabbath.”

That recognizes Sunday as the Sabbath, and of course there is a certain “quiet” that becomes it; and they wanted it open with the machinery stopped “that this quiet may

prevail." That is the same reason that the other folks gave why it should be shut on Sunday.

"That suitable accommodations be provided within the Exposition grounds for holding *religious services the Sabbath-day, to the end* that all the denominations may have worship conducted according to their several customs without obstruction or hindrance."

That is the same reason that the other folks wanted it shut—only that they want to have "religious services" *in their churches.*

"We recognize and rejoice in the fact that our country is and always has been a Christian nation."

And the leading reason urged by the churches for *closing* it, is that "this is a Christian nation."

"We believe that the United States *as a Christian country*, should open the gates Sunday as a recognition of the fact that in no branch of human interest or thought has there been more progress during that four hundred years of time than in the Christian Church."

That is exactly the reason that the other folks gave for shutting it: that the United States, "as a Christian nation," should shut the Fair on Sunday "as a recognition of the advancement made in Christian ideas."

"Would it not be a good thing to throw the sanctity of religious worship about the great temple dedicated to the things of use and beauty?"

And the reason given for shutting the Fair was that it would be a good thing to throw "the sanctity of religious worship" about *the whole Fair*, by shutting the gates entirely.

So you can see, the reasons that were given for opening it are precisely the reasons that were given for shutting it.

The *Chicago Tribune*, in mentioning the letter that Cardinal Gibbons wrote on the subject, introduced it in this form, in its issue of Dec. 3, 1892:—

"There is a strong and growing sentiment in some religious circles in favor of the repeal of the World's Fair Sunday-closing act. One eminent

divine after another is coming out in favor of this liberal movement. The possibilities for a series of religious demonstrations at the Park become more and more manifest. With the leading religious and moral teachers of Europe and America to conduct services every Sunday, with sacred music produced by choruses embracing, perhaps, thousands of trained voices, Sunday at the World's Fair will be *one of the grandest recognitions of the Sabbath* known to modern history."

So the other folks said, if the Fair be closed on Sunday, and the solemnity of the Sabbath overspreads it, and this nation sets the grand example of the recognition of the Sabbath, it will be "one of the grandest exhibitions of the Sabbath known to modern history."

More than this, those who worked for the opening of the Fair courted the Church interests precisely as the others did in working for the shutting of it.

As soon as these things appeared in print, I wrote a letter to Mr. Allen Moon, who had charge of our petitions and work in Washington, sending him these marked passages; and I said to him: "You can readily see that the reasons that are given by these people for opening the Fair are precisely the reasons that were given for shutting it. Now that being so, for us to join with them would be to recognize the legitimacy of the legislation and the reasons for the legislation, whereas every one of these reasons is directly against everything that we have been working for all these years in Congress. So this makes it plain enough that we cannot put a single one of our petitions along with theirs. We cannot take a single step along with them; we cannot work with them at all, or connect with them in any way in the way they are working, or upon the reasons which they give for opening the Fair. We will have to maintain the position that the legislation is not, and never was, right at all. The only thing we can do therefore is to hold that the thing ought to be undone. The only position which we can take is that the Sunday part of the legislation should be unconditionally repealed."

Mr. Moon immediately replied that he had seen these statements in the Chicago Memorial, and had already taken the position that I spoke of in my letter. At the same time I wrote an article which appeared in the *American Sentinel*, December, 15 1892, setting forth the same facts and taking the same position; saying : —

“Another significant phase of the contest is, that while Archbishops Ireland, Gross, and Riordan, of the Catholic Church, favor Sunday closing of the Fair, Cardinal Gibbons and other archbishops favor Sunday opening. While most of the bishops of the Protestant Episcopal Church, and ministers of other professed Protestant churches demand Sunday closing, Bishop Potter, of the Protestant Episcopal Church and other prominent ministers of that and other so-called Protestant churches, demand Sunday opening. But whether the demand be for Sunday closing or for Sunday opening of the Fair, it is made by all these in the interests of Sunday, to promote its observance and the more to exalt it as the great ‘Christian’ institution.

“The conclusion of the whole matter is, that instead of there being a movement to have Congress abandon the usurpation which it has practiced, unconditionally repeal this unconstitutional legislation, and take its position again where alone it belongs, this is a movement to have Congress continue its usurpation, multiply its unconstitutional legislation, and confirm itself in the unlawful position which it has taken. Instead of insisting that Congress can never of right have anything at all to do in any way with the question as to whether Sunday should be observed at all or not, this is only an effort to have Congress decide what will best and most powerfully promote the observance of that day which Congress has already unconstitutionally and irreverently decided is ‘the Christian Sabbath.’

“This movement and the legislation which it demands is just as much in the interest of the church power, and is just as much to please this power, as was the original legislation of Congress on the subject. And the effect which it will have — the only effect which it can have — is only the more fully to confirm in the hands of the church power, the governmental authority of which that lawless power has already robbed the people.

“Because of all these facts the *American Sentinel* takes no part in this Sunday-opening campaign. Our position is just what it always has been. We do not, and never did, care the scratch of a pen whether the World’s Fair be open or shut on Sundays. We *do* care, and always have cared, more than can be told, whether the question should be decided by legislation; and whether the government should thus be surrendered into the hands of the church power. Against this we have always protested and

worked with all our might, both before and since it was done. Our demand is that all Sunday legislation of all kinds everywhere be unconditionally repealed. But there is no possibility of this ever being done anywhere. This we know, consequently our position is one of positive, uncompromising and everlasting *protest* against all that has been done, against all that is being done, and against all that ever shall be done, by law, in behalf of Sunday ; whether to open the Fair, or to close the Fair, or anything else under the sun."

PRELIMINARIES TO THE HEARING.

Upon this, Mr. Moon told the chairman of the committee and the gentlemen who were managing that side of the question in Washington, that neither we nor our petitions could be counted at all in connection with the movement for Sunday opening, as such. The chairman of the committee asked Mr. Moon what our position was. He told the committee what our position was, and how many petitions we had there. Of course all the names that were gathered upon that first petition, nearly four hundred thousand, were just as good for this day as they were at first. They are *everlastingly* against the whole thing. When Mr. Moon told him what our position was, and the reasons for it, the chairman said to him in substance : " You write out your position as regards this legislation, and I will present it as a bill, in the House, so as to give you a basis upon which to present your petitions, and for your arguments to be heard." Mr. Moon, in that room, dictated to Mr. Thompson of Chicago, what we desired, and Chairman Durborow introduced it with his own name on it. Following is the bill : —

" 52d CONGRESS, }
2d SESSION. } H. RES. 177.

" In the House of Representatives, Dec. 20, 1892. Referred to the Select Committee on the Columbian Exposition and ordered to be printed.

" Mr. Durborow introduced the following joint resolution : —

" Joint Resolution to repeal the religious legislation pertaining to the World's Columbian Exposition.

" *Whereas, The United States Constitution specifically states that ' Congress shall make no laws respecting an establishment of religion, or prohibiting the free exercise thereof ; ' Therefore be it —*

“Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the act of Congress approved August fifth, eighteen hundred and ninety-two, appropriating five millions of Columbian half dollars to provide for celebrating the four hundredth anniversary of the discovery of America by Christopher Columbus, by holding an International Exposition of arts, industries, manufactures, and products of the soil, mine, and sea in the city of Chicago, in the State of Illinois, on the condition that the said Exposition shall not be opened to the public on the first day of the week, commonly called Sunday; and also that section four of ‘an act to aid in carrying out the act of Congress’ approved April twenty-fifth, eighteen hundred and ninety, entitled ‘An act to provide for celebrating the four hundredth anniversary of the discovery of America by Christopher Columbus, by holding an international exposition of the arts, industries, manufactures, and products of the soil, mine, and sea in the city of Chicago, in the State of Illinois,’ be, and the same is hereby amended so as to leave the matter of Sunday observance entirely within the power of the regularly constituted authorities of the World’s Columbian Exposition.”

It being understood that this bill was introduced with the understanding and for the express purpose of opening the way for us to present our petitions, and to be heard upon the question as we regarded it, we proceeded upon that idea. The arrangement for the hearing was made. Mr. Moon tells me that if the hearing could have been had before Christmas, he is perfectly satisfied that we would have been fully and fairly heard upon the principles which we hold, and which are expressed in this bill. But the hearing was not appointed until after the holidays, and Congress took a recess during the holidays, and when Congress reconvened, it was discovered that the chairman of that committee was another man altogether. Something caused him to repudiate all that he had done in this connection and shut out the principle embodied in that resolution, which he himself had introduced in order that we might be heard.

Dr. Lewis, the Seventh-day Baptist, went to Congress to be heard. He told me that he went to Mr. Durborow, the chairman of the committee, and asked to be heard. Mr. Durborow asked him what he represented, and what his argument was to be. Mr. Lewis told him that it would be upon

the point of the unconstitutionality of the legislation already adopted by Congress. Mr. Durborow told him that the committee had decided not to hear any arguments at all upon the *principle*, but only upon the *policy*, of the legislation; not to consider any question at all as to whether it was constitutional or not, but that Congress had done it, and it was presumed that Congress had the right to do it. And any mention as to the propriety of the legislation, would be entirely left out, and it was only to be considered now as to whether it would be better policy for the country to open the Fair or shut it on the Sunday that had been adopted by Congress.

When that was done, Dr. Lewis had nothing at all to say, and made no calculation to say anything. But the third day, and among the last minutes of the day, Mr. Durborow called upon him to speak, giving him five minutes. Dr. Lewis told him that he did not have anything to say, that he did not have his documents with him, and that he had no intention to speak under the circumstances. But Mr. Durborow rather insisted that he should, that he had five minutes to occupy if he chose. So he occupied them, though in a rather perfunctory way.

Samuel P. Putnam was there for the same purpose, having several thousands of petitions in his pocket. He is president of the Free Thought Federation of America. He went to Mr. Durborow for a portion of time to be appointed him, and he received the same information; that any arguments as to the constitutionality of the question, or the principle involved, were not to be considered at all, but only the policy of the legislation. That being so, Mr. Putnam made no further request. But he likewise was called upon to speak, but was given only a very few minutes, which he occupied as best he could.

I did not reach Washington long enough beforehand to learn all this. Mr. Moon knew it, but I did not have a chance to talk with him. My train was late, and I arrived

there only in time, by hurrying, to reach the committee room as the hearing was opened. So I did not have time to learn anything about the situation at all. After several speeches had been made, Mr. Thompson, of Chicago, came to me and asked me if I would take the balance of the time that day,—the last half hour. As I had written to Mr. Moon that whatever arrangements they should make, I would conform to when I got there, I supposed that was the arrangement, although it was not, strictly. I told Mr. Thompson that if they thought best, I would speak that day, but I would like to wait until after the American Sabbath Union had spoken; but if they would rather, I would take the time.* And so when I began, I began on the only thing I knew; namely, to call in question the legislation. But that was the thing the chairman had decided not to have discussed. I noticed immediately that he was very restless. But I did not know what was the matter. It is true that the chairman made a statement in opening the hearing that I understand now, but did not fully then. He said:—

“The meeting to-day will be held for the purpose of giving a hearing to those favoring the legislation that is before the committee. I think it would be proper to state to the committee that the present case is somewhat different from the case as presented a year ago; and that the proposition before the committee is to *modify existing* law, not *create* law, as was the proposition a year ago. Therefore the discussion before the committee on this occasion it is expected *will be held very closely* within the lines of *modification* presented in the resolution before the committee, copies of which are on the desk, and which can be furnished to you, which provides for *the modification* of the closing of the gates of the Columbian Exposition on Sunday, by permitting them to be opened under restrictions as stated in these resolutions.”

That expression, “not to create law,” was the statement that I did not understand then, but do now.

It was fortunate, in another sense, that I spoke that half hour, because there was no time afterward when I could have had a half hour. The longest time occupied by anybody after

that was about twenty-five minutes, and the most of the fifty-seven speakers had only an average of about ten minutes allowed them.

Although the chairman shut out the argument I was making upon the Constitution, yet other members of the committee asked questions until the whole half hour was consumed; and every one of their questions was presented in such a way that I was compelled to strike the Constitution and the unconstitutionality of what they had done, in answering the questions, and so the argument they wanted to shut out was presented in spite of the efforts of the chairman. And the very things that he refused to listen to from us, on other points, were presented by others, in a great deal stronger way than we should or could have stated them. My argument before the committee was as follows:—

ARGUMENT OF ALONZO T. JONES.

Mr. Durborow.—You have just thirty minutes left, Mr. Jones.

Mr. Jones.—Mr. Chairman, I expect to speak in favor of this legislation that is now before the committee for a larger number of reasons than could be given in the half hour which I may have to speak; but I shall endeavor to touch upon such reasons as have not been dwelt upon very particularly hitherto. I shall start with one that has been touched by Mayor Washburne to some extent, but which may be referred to a little more fully, and then I shall go from that to the consideration of other points.

My first point is that this subject, of whether the gates of the World's Fair shall be closed or opened on Sunday, is a subject with which the national government has nothing at all to do. It is entirely beyond its jurisdiction in any sense whatever. There are three distinct considerations—

Mr. Robinson.—What church do you belong to?

Mr. Jones.—I do not see what that has to do with the question.

Mr. Durborow.—The gentleman certainly has the right to ask the question.

Mr. Jones.—Is he a member of the committee?

Mr. Durborow.—Yes, sir.

Mr. Jones.—Very well; I beg your pardon; I did not know that the gentleman was a member of the committee. I am perfectly willing to answer the question, though I cannot see what bearing it has upon this discussion.¹ I am a member of the Seventh-day Adventist Church. But I speak here to-day as a citizen of the United States, and upon the principles of the government of the United States. And I may say further that in the way that Congress has touched this question, I may probably speak upon it as a Seventh-day Adventist; as Congress has entered the field of religion already, we have the right to follow it there, if necessity should require.

What I was about to say is that three distinct considerations in the Constitution of the United States forbid Congress to touch this question. The first is well defined by George Bancroft in a letter which he wrote to Dr. Philip Schaff, Aug. 30, 1887, which reads as follows:—

“My dear Mr. Schaff: I have yours of the 12th. By the Constitution no power is held by Congress, except such as shall have been granted to it. Congress therefore from the beginning was as much without the power to make a law respecting the establishment of religion, as it is now after the amendment has been passed. The power had not been granted, and therefore did not exist, for Congress has no powers except such as are granted; but a feeling had got abroad that there should have been a bill of rights, and therefore to satisfy the craving, a series of articles were framed in the nature of a bill of rights, not because such a declaration was needed, but because the people wished to see certain principles distinctly put forward as a part of the Constitution. The First Amendment, so far as it relates to an establishment of religion, was proposed without passion, accepted in the

¹ Church membership is not a qualification for a hearing before a committee of the Congress of the United States.

several States without passion, and so found its place as the opening words of the amendments in the quietest manner possible. . . .

“GEORGE BANCROFT.”¹

This is shown also by the Tenth Amendment to the Constitution, which says that “the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” As no power has been granted to Congress on the subject of religion, *that* is reserved to the States or to the people. That is where we ask that this shall be left,—just where the Constitution has left it. It is a question reserved to the States. It is for the State of Illinois alone, so far ‘as any State can have anything to say upon the subject, to say whether that Fair shall be opened or shut on Sunday. If the State of Illinois should not say anything on the subject, it is still left with the people. It is for the people in their own capacity as such, to act as they please in the matter, without any interference or dictation by Congress.

Not only is this so on that point, but if the Constitution had not said a word on the subject of religion, there would have been no power in Congress to touch this question. But the people have spoken; the Constitution has spoken, and denied the right of the United States government to touch the question, and has reserved that right to the States or to the people. Not only did it do that, but it went farther, and actually prohibited the government of the United States from touching the question. This lack of power would have been complete and total without the prohibition, because the powers not delegated are reserved. But the people went farther, and not only reserved this power, but expressly prohibited Congress from exercising it. It is trebly unconstitutional for Congress to touch the question. It was so at the beginning of the government, and this is why we insist that this legisla-

¹ Schaff's “Church and State in the United States,” p. 137.

tion shall be undone, and leave the whole matter where the Constitution has left it,—to the States or to the people.

Mr. Houk.—The language of the Constitution, I believe, is that Congress shall make no law respecting the establishment of religion.

Mr. Jones.—I was going to follow this question a little farther, and notice that amendment. The amendment does not read, as it is often misquoted, “Congress shall make no law respecting *the* establishment of religion; but “Congress shall make no law respecting *an* establishment of religion, or prohibiting the free exercise thereof.” There are two meanings in this clause. When the Constitution was made, all that it said upon this subject was that “no religious test shall ever be required as a qualification to any office or public trust under the United States.” Some of the States had established religions at the time; I think all except Virginia. Virginia had released herself in a campaign directly touching this question. The first part of the clause was intended to prohibit Congress from making any law respecting any of these religions which were established already in those States, and the second part of the clause prohibits Congress from touching the subject of religion on its own part, in any way. In the State of Virginia, from 1776,—with the exception of the interval when the war was highest,—to Dec. 26, 1787, there was a campaign conducted over the same question that is now involved in this legislation.

The English Church was the established church in Virginia, and the Presbyterians, the Quakers, and the Baptists sent a memorial to the General Assembly of Virginia, asking that as the Colonies had declared themselves free and independent of British rule in civil things, so the State of Virginia should declare itself free from British rule in religious things, and that they should not be taxed to support a religion which they did not believe, nor even any religion which they did

believe. And the English Church was disestablished. Then a movement was made to establish the "Christian religion," and to legislate in favor of the "Christian religion," by passing a bill establishing a provision for teachers of that religion. Madison and Jefferson took the opposition to that bill, and by vigorous efforts defeated it, and in its place secured the passage of a bill "establishing religious freedom in Virginia," which is the model of all the State Constitutions from that day to this, on the subject of religion and the State.

Now then, that campaign in Virginia against the establishment of the Christian religion there, embodied the same principle that is involved in this legislation of to-day. And as that was distinctly shut out, so we ask that this shall be also, and Congress and the government step back to the place where it was before and where it belongs. Madison went right out of that campaign into the convention which framed the Constitution of the United States, and carried with him into that convention the principles which he had advocated in this campaign, and put those principles into the United States Constitution ; and the intention of all was, and is, that Congress shall have nothing at all to do with the subject of religious observances.

Washington, in 1797, made a treaty with Tripoli, which explicitly declared that "the government of the United States is not in any sense founded upon the Christian religion." And when Congress has legislated upon this question with direct reference to the Christian religion, therein again it has gone contrary to the express intent of those who made the Constitution and established the supreme law, as expressed in their own words. And for this reason we ask that the thing shall be undone, and Congress put the government right back where it was before that legislation was established, and leave the question where it belongs.

Mr. Durborow.—Your objections are simply constitutional?

Mr. Jones.—There are some others, but the foundation of all is the unconstitutionality of it. Those who sent up the petitions here, and those who worked for the movement in this Capitol, knew that it was unconstitutional when they asked it. A gentleman¹ who spent six months at this Capitol for this legislation, has argued for more than twenty-five years, in print and in speech, that any Sunday legislation by Congress, or legislation in behalf of the Christian Sabbath, would be unconstitutional. And yet he worked here six months to get Congress to do that without any change in the Constitution. For twenty-five years, he, with the Association to which he belongs, has been working to get an amendment to the Constitution recognizing the Christian religion and making this a “Christian nation,” so that there would be a constitutional basis for Sunday legislation. But now in the face of that twenty-five years’ history and work, and in the face of their own arguments, they have gone right ahead and got Congress to do it, when they knew it was unconstitutional.

Another reason why we ask the repeal of it is that it was secured upon false representations. The representations which they made to Congress in order to secure this legislation were all false. They represented before Congress that the mass of the people of the United States were in favor of their cause, which has been demonstrated over and over to be false. It was forcibly demonstrated in the city of Chicago not quite a month ago. There the American Sabbath Union held a convention,—a national convention. They had four mass-meetings the first night of the time in which the convention was held. One of those mass-meetings I attended. It was reported in the Chicago papers, of which I have copies

¹Rev. H. H. George, of Beaver Falls, Pa.

here. I will read the Chicago report of it, so that it will be seen that I have not put any of my feelings into it. The *Chicago Tribune* of Dec. 14, 1892, had this report : —

‘IT WAS VOTED DOWN.

“The American Sabbath Union suffered a defeat last night at one of its meetings, which so surprised the leaders present, that the incident was a veritable sensation. It was an unexpected blow, and the more grievous because it was administered by one of the most sabbatarian of all Christian denominations.”

Mr. Jones.— This was not the first instance of the kind, as some present here will remember.

Rev. W. F. Crafts.— That’s a good joke.

“The Union opened a national convention here yesterday afternoon, and made arrangements for four mass-meetings throughout the city last night to forward the movement. One of these meetings was held at the M. E. Church, South Park Ave., and 33d St. It was a small mass-meeting, but everything went on smoothly for a time, and the ‘American Sabbath’ had everything its own way. Dr. H. H. George, a leader in the movement, Mr. Locke, and others advocated the closing of the World’s Fair on Sunday, and vigorously denounced the efforts of the directors and of the mayor and city council to have Congress repeal the closing act. These speeches were warmly if not unanimously approved by frequent amens and clapping of hands. No one looked for any opposition, and so the following resolutions were drawn up in a confident and emphatic manner : —

“ ‘ *Whereas*, We are informed by the Chicago press that our City Council, through the influence of Mayor Washburne, has appointed a committee of its members to go to Washington for the purpose of influencing Congress to reverse its action with reference to closing the World’s Fair on Sunday ; and,

“ ‘ *Whereas*, The Chicago directors have opened headquarters in Washington for the same purpose, notwithstanding the acceptance of two and one half million dollars appropriation from Congress on the express conditions that the gates should not be opened to the public on Sunday ; and,

“ ‘ *Whereas*, There are seven thousand saloons running open every Sunday, contrary to the State law ; therefore, be it —

“ ‘ *Resolved*, First, That we enter a most earnest protest against such official action on the part of the mayor and city council, in using such measures in opposition to the action of Congress, and spending the people’s

money in attempting to reverse the very conditions upon which the appropriation of Congress was received.

“ ‘*Resolved*, That we deprecate and condemn the action of the directors, who received the money from Congress upon condition that the Fair should not be opened Sunday (a *bona-fide* contract), and are now using all possible effort to influence Congress to set aside said condition.

“ ‘*Resolved*, That in our judgment it would be more proper for the mayor and city council to close the saloons on Sunday in accordance with the State law, than to endeavor to influence Congress to open the Exposition Sunday, contrary to law.’

“ There was applause at the end, and then the chairman of the meeting, Rev. H. N. Axtell, put the resolutions to vote. To his and others’ surprise the ‘ayes’ and ‘noes’ seemed equal, with the volume of tone apparently in favor of the latter. The chairman then said, that a rising vote would seem to be in order, and he requested all in favor of the resolutions, to stand up. The secretary counted thirty on their feet.

“ ‘All opposed will arise.’

“ The rest of the audience, with the exception of four who seemed to have no opinion on the matter, stood up, and the secretary looking astonished at the evident majority, paid little attention to counting heads, and declared that there were at least thirty-five against the resolution, and what seemed strangest was that many of them were women.

“ After a moment of wonder the chairman said he would like to have some explanation for the action of the majority.”

Mr. Jones.— I was there and gave the reason why we were opposed to the resolutions. The next day in their convention this thing was called up, and quite fully considered. And so I read the report from the *Chicago Times* of the following day : —

“ Gloom pervaded the meeting of the American Sabbath Union yesterday morning. The unexpected set-back received at the meeting held at the South Park Methodist Church the evening before, had dampened the ardor of the delegates, and only a baker’s dozen were in their seats when the presiding officer of that session, Dr. H. H. George, of Beaver Falls, Penn., called the meeting to order. The cause of the depression was the outcome of the meeting the night before. Four mass-meetings were held Tuesday night. At three of these, resolutions were adopted in favor of Sunday closing of the World’s Fair. At the other, the resolutions were defeated, the attendance, it is now claimed, being principally of Adventists.

That was the reason of the gloom which pervaded the Sabbath Union yesterday.

“The committee appointed to prepare a telegram to Congress reported the following : —

“ ‘The National Convention of the American Sabbath Union, meeting in this city, respectfully request our Congress, and especially the Committee on the World’s Fair, that no action be taken to repeal the Sunday-closing law. Mass-meetings were held in four different parts of the city last night to protest against this repeal as an act dishonorable to Congress and the nation.’ ”

“Dr. Mandeville was on his feet in an instant.

“ ‘That should not read, four mass-meetings, for one meeting was opposed to the resolutions,’ he said. ‘It should read three mass-meetings.’

“ ‘Yes,’ protested the committeeman, ‘but our resolution covers that point. It says the meetings were held *to* protest—it does not tell what they did.’

“But Dr. Mandeville would not be hoodwinked by any double dealing of the sort, and the resolution was made to say that three mass-meetings vigorously protested against the repeal of the Sunday-closing law.”

The Secretary of the American Sabbath Union for the State of Illinois wrote a correction to the *Chicago Evening Post*, in which he denounced those who voted against their resolutions as “brass interlopers,” and for having “massed their forces to defeat the object of this mass-meeting.” That opened the way for me to write a reply, which I read here as a part of my argument, and which explains this point a little more fully before this committee : —

“CHICAGO, DECEMBER 17.

“*Editor of the Evening Post :*

“I would not needlessly add to the afflictions of the American Sabbath Union, but in justice to the people denounced in Rev. Mr. McLean’s letter in the *Evening Post* of Thursday, as well as to bring that letter within the boundary of facts, Mr. McLean’s correction needs to be corrected. That he should not have a clear understanding of the situation at the South Park Church mass-meeting of Tuesday night, is not strange. He was not there. I was there, and therefore beg a little space to correct his correction. He states that the Seventh-day Adventists, ‘evidently supposing it would be a fine stroke of policy, in order to defeat the object of the meeting, massed their forces,’ from the region of the meeting, ‘with the result as published.’

This is a total misapprehension. There was not a particle of policy about it ; there was no thought beforehand of defeating the object of the meeting ; and our forces were not massed. That there was no massing of forces will readily appear to all from the fact that while there are one hundred and ninety-four Seventh-day Adventists in this quarter of the city, there were only about forty at the mass-meeting. And whereas, there are fully three hundred Seventh-day Adventists in the other three divisions of the city — west side, north side, and Englewood — there were none in attendance at the Sunday Union mass-meetings in those three quarters. If we had done as we are charged with doing, at least three, instead of only one, of their mass-meetings would have been carried against their resolution. Mr. McLean ought to be thankful that we are not so black as he has painted us, and that they escaped as well as they did.

“ But why should they denounce us ? Was it not — ”¹

Mr. Chairman.— (Mr. Durborow).— I don't want any more of such stuff as that. I do not see what bearing that

¹ What I was going to read further was this : —

“ Was it not advertised and held as a mass-meeting ? Had we not a perfect right to attend it ? And had we not a perfect right to vote against any resolutions that might be offered ? When we went to the meeting, as the masses were expected to go, were we to keep still when called upon to vote ? And to remain silent when directly called upon, both by the gentleman who offered the resolutions and by the chairman, to explain our vote ? In view of these facts, is it the fair thing for them to denounce us as ‘atheists,’ ‘religious anarchists,’ ‘brass interlopers,’ etc., as they have done ? What kind of mass-meeting did they expect to hold, anyhow ? More than this, what kind of mass-meeting is that wherein forty people can ‘mass their forces’ and defeat the object of the meeting ? In all their meetings they missed no opportunity to proclaim over and over that forty millions of the American people are on their side of the Sunday question. In the meeting that night Dr. George vehemently declared that on their side were forty millions, while there were only about twenty-five thousand of the Seventh-day Adventists in the United States. ‘Forty millions of us,’ he shouted, ‘and we are not afraid. Forty millions of us and we have the government on our side, and we are not afraid of anything that the Adventists can do.’ Now if the people were so overwhelmingly in favor of the work of the American Sabbath Union, how would it be possible for a few, in proportion of only one in sixteen hundred, either to pack their meeting or defeat their resolutions ? If their own representations were true, they would have had the house full and the galleries packed with people in favor of the work of the Sunday Union, and it would be literally impossible for all the opponents that could be ‘massed’ to defeat the object of the meeting. But when the facts demonstrated that their own mass-meetings were so slimly attended that forty people could largely outvote them and kill their resolutions and ‘defeat the object of the meeting,’ this in itself demonstrates that their claim of an overwhelming majority of the people in favor of Sunday closing of the World's Fair is a downright fraud. And this is what hurts them. As long as they can go on unmolested and uncontradicted in their misrepresentations, they are happy. But when an incident occurs that exposes the fraud in their claims, it grinds them.”

has on this question. Please confine yourself to proper lines of argument.

Mr. Jones.—It shows this, that their representation of forty millions of people—the masses of the country—is not true. When forty people can go to a mass-meeting and out-vote them, it shows that the masses are not with them.

Mr. Durborow.—We are here on a matter of changing some legislation. I think we might as well drop that. The congressmen undoubtedly knew what they were doing when they passed that bill.

Mr. Jones.—I am not casting any reflection upon Congress in this. I am not saying that the Congress knew that these representations were false. But is it not possible for congressmen to be deceived, and seriously to consider representations which were false?

Mr. Durborow.—I don't think your whole argument is very respectful to the Congress of the United States.

You see he shut me off from showing that these representations were false and said he did not “want any more of that stuff;” but he got it. Rev. H. W. Cross, a Presbyterian minister from Ohio went to Washington to make a five minutes' speech. And the third day of the hearing, he set forth this matter stronger than I could have done. We think best to give just here his and other speeches on this point:—

SPEECH OF REV. H. W. CROSS, BEFORE THE COMMITTEE.

“*Mr. Durborow.*—Rev. H. W. Cross, of Ohio, will speak for five minutes.

“*Rev. H. W. Cross.*—Mr. Chairman and gentlemen of the committee: The real object of my being here to speak a word, is in favor of intellectual honesty on the part of the orthodox churches. I am a minister of an orthodox church.¹ I notice in my territory that these church petitions are ex-

¹ At this statement, there was an audible, derisive snicker from the clergy present. It seemed to be a strange thing that a minister of an orthodox church should speak in favor of intellectual honesty on the part of the churches.

ceedingly delusive, as to the number of those that sign them or vote for them.

“Now, for example, in one instance in our State, the Presbyterians passed a resolution, saying that we represent so many, aggregating a certain membership; and then the Christian Endeavor Society, composed of many of the same church members alluded to by that Presbyterian Church, will pass a like resolution, and say we represent fifty, seventy, or one hundred members. And then it will be brought before the Sunday-school. And many of the persons who are counted as voting for the resolutions, will have been counted three, four, or five times; and it is almost on the principle of voting early and often — which is so much opposed in secular politics. I am a witness to this fact. There was one petition claiming to represent eighty church members that signed the petition to Congress, but they were not present at all. It was at a Sunday-school, and the vote was taken by the Sunday-school superintendent, and there were children that voted for those resolutions that were not old enough to know whether the expression ‘World’s Fair’ meant the pretty girls in the next pew, or the Columbian Exposition in Chicago.

“I deem it my duty to inform this committee of the facts in that case. The real animus of these petitions is religious. But you cannot tell by the wording of the petitions just what they mean; it is the spirit back of them that shows this. The columns of the religious press and the exhortations of class leaders and Sunday-school superintendents,—it is what they say to the few that were voting, that tell what these petitions mean. I deem our legislators thoroughly competent, intellectually and morally, to decide this question without any imperious dictation from any sect or group of sects, as to whether this opening of the great educational Exposition is consistent with the civil Sabbath. I notice a tendency in my own church papers, and in other orthodox church papers, to gloat over the fact that ‘we [that is, this group of denominations having this common idea] have been strong enough by our own strength, to grasp Congress; we have hurled Congress against the Seventh-day Adventists, against the Seventh-day Baptists, and against the Roman Catholic citizens, and against various other of our citizens.’ Now it seems to me that is hardly a desirable thing to do in this country.

“I cannot speak to you, gentlemen of the committee, in the manner and to the extent that I had prepared myself, owing to the fact that I have but five or six minutes allowed me, and so I have simply presented these two points: that these petitions are exceedingly delusive as to the number who sign them, inasmuch as one and the same identical people have spoken many times, and in a great variety of instances, at conventions as individual signers, at Sunday-schools, as members of the Society of Christian

Endeavor — the same persons have voted again and again. And when you come to figure out the vast aggregate, it is exceedingly delusive, and if the interests of the civil Sabbath —

“*Mr. Durborow.*— Mr. Cross, your time has expired.

“*Mr. Cross.*— Very well, then ; I will leave my sentence unfinished. I bow to the decision.”

Rev. Minot J. Savage, of Boston, who followed Mr. Cross, remarked upon this point :—

“The former speaker has made reference to the statistics. I think, myself, that too much has been made of the statistics that have been presented. While the statistics were being read, I felt running through my mind a quotation from the Hon. Carroll D. Wright. I do not mean it as an insult to the gentlemen here ; but it struck me as being so witty and so apropos that I present it. Carroll D. Wright said that, ‘Figures will not lie, but liars will figure.’ I do not mean, gentlemen, that these people are, consciously, liars ; but when a man votes for a thing as a church member, and then votes for it as a member of the Christian Endeavor Society, and in the Sunday-school, and as a member of some temperance society, he does not make four men of himself in the process, and that ought to be remembered.”

Another speech which most powerfully set forth this that the committee refused to hear from us, was that of Mr. Thomas J. Morgan, a laboring man from Chicago. He had his speech written out to be read. But after hearing some of the church representatives, he was so stirred by their misrepresentations, that he, when he came to speak, forgot all about his written speech, the passing of time, and everything else, till the Chairman told him his twenty-five minutes were gone. We give his speech here also.

SPEECH OF THOS. J. MORGAN.

After stating whom he represented, and that he had received word “from three hundred and seventy-five labor organizations, coming from every town and city in the United States, in which there is sufficient industry carried on to promote or encourage the organization of a body of workmen,” and covering up to date “thirty-three States of the Union,” he said :—

“Now, Mr. Chairman, having stated the authority that is vested in me, I wish to say that I appear before this committee under very great embarrassment. I did not know until two hours before I took the train, that I should be able to reach this committee. I arrived here at eleven o'clock last night, and being in a new place, in unaccustomed conditions, I lost my sleep. In addition to that, I am just from the bench. You see [holding up his hands] I am a workman ; there are the callouses and corns that are a necessary incident to manual labor. I come unprepared by education to meet the arguments presented here, or to present my case with the force and fluency that gentlemen in the opposition have, having been forced by my condition to labor all my life-time since nine years of age, without a single vacation ; absolutely denied the opportunities of education except that which was wrested from my sleeping hours.

“I am also embarrassed by the fact that I find myself, for the first time in my life, in the midst of a lot of friends of labor, whose existence I never before was aware of ; and I am absolutely astounded as well as embarrassed at the statements they make. They not only claim to speak in the name of labor, such as we have it in the United States ; but, lo and behold, they speak with the voice of authority from my fellow-workers in Great Britain, from which country I came. Not only that, but they take the name of a man whom I honor more, possibly, than any other, and hurl authority from that source at this committee ; — that man is Karl Marx. They speak in the name of the Social Democrats of Germany also ; and I, being a Social Democrat, being an Englishman, and associated intimately with the reform movement in that country, and being here in the United States for twenty-three years an active labor reformer,—why, you can imagine my embarrassment and astonishment when I find myself in the presence of these advocates and friends of Karl Marx, the Social Democrats of England, and the friends of labor reform here in the United States. [Turning to the clergymen.] I regret exceedingly that I cannot grasp your hands in fraternal friendship. I am sorry that I have to say, Oh, save us from our friends. I am embarrassed in being compelled to say that I am here with authority to absolutely repudiate you, and charge you with false representation.

“When I heard the statements they made, I thought, I will approach this matter with kindness, gentleness, etc. ; I thought to myself, I hope I will have the power to deal with this question in the same spirit ; but I am afraid I have overstepped the limits already. I have this thing so near at heart that ordinary composure is absolutely destroyed when I find that we are attacked, that our interests are so misrepresented, that our desires and wants are so distorted by these men who claim to speak with authority.

“[To the Clergymen]. You bring men's names from England, who

are absolutely unknown. What is the matter with Joseph Arch? What is the matter with Tom Mann? What is the matter with Ben Tillott? Can you speak in their names? — No, you bring some unknown names here to add force to your misrepresentation. You have never been the friends of labor, and at this time you have no right to speak in that sense.

“When you brought your references here, my mind ran back at once to England, to Joseph Arch, a layman in the church, whose zeal for the Christian religion was too great to be contained. As a layman he taught, under the hedge-rows, the moral truths that Christ enunciated, and he found in his efforts to lift up his class that the whole array of the clergymen of Great Britain were against him, as we find the whole array of the clergy of the United States, except the Catholic Church, arrayed against us.

“[Voices from the clergymen expressing disapproval.]

“Possibly that statement I made that the *whole* clergy was arrayed against us is not strictly true. I hope to save myself from any statement that is not absolutely based upon facts. Possibly I would be right if I said that the evangelical churches of the United States, as here represented, are absolutely opposed to us and to our interests. Probably I should except the Catholic Church; possibly I will admit that. I tell you I am embarrassed. Possibly you will give me some consideration at least in that respect. I wanted to undo the work that you have been doing here, and I will do it to the best of my ability.

“Joseph Arch, to whom I referred, who now lives and from whom you have got no word, who was lifted from the hedge-row to the House of Parliament, was placed there by the people, and he promised to make it possible for them to live in decency and respectability. After he had accomplished that, the clergymen of Great Britain called him to a great meeting in Exeter Hall, at which there were present two hundred clergymen. They asked him to explain the purposes of his organization, and he did so. It was to lift the people out of absolute ignorance, into the comforts and decencies of manhood; it was to kill the saloon, to empty the jail, to give men in the agricultural districts a chance to live as decent human beings. He had accomplished a great deal in that direction, and he not only told the ministers, ‘We not only did it without your help, but we did it in the face of your absolute effort in antagonism.’ And he said, ‘After we have accomplished this work you call us to account! We give you the results of our work. We did that without your help. We will go right along. All that we ask you is that if you cannot see your way to help us, get out of the way and leave us alone to do our work.’ This is my answer to your English production.

“You speak here of the Social Democrats of Germany. What right have you? You have no authority at all. You go to work and take this

little bit, and that little bit, from the work of Karl Marx, the Social Democrats, and the result of their convention, and present it here with authority. I am a Social Democrat. I belong to that organization, and have done all I could to proselyte, in my humble way, the minds of the workmen of the United States, to the principles they hold. And I want to tell you clergymen that the principles held by the Social Democrats of Germany are the principles enunciated by Jesus Christ, and which you do not understand.

“[Voices : ‘Hear, hear.’]”

“Mr. Chairman, I not only speak with this authority that I have expressed, but I want to call attention to the relative position that we occupy toward this World’s Fair matter, in comparison with this body of clergymen organized like a machine [turning to the ministers] — to call up one after another to do his portion of the work.

“*Mr. Durborow.* — Mr. Morgan, the committee is at this end of the table.

“*Mr. Morgan.* — My general statement as to my unfitness for this kind of work will excuse me, I hope. If the friends of the Church had been kinder to me when I was a child, had they taught me to read and write, I possibly would have been able to follow all the requirements of refined and common etiquette and society. Thanks to them, possibly I shall make some bad breaks, for which I ask to be excused.

“I was going to say, Mr. Chairman, that in addition to the authority that I have here set forth, I wish to say that we workmen of Chicago particularly and especially demand the right to be heard with more consideration than our opponents. As soon as the word went forth that it was proposed to have an exposition, a world’s exposition, in the United States, the labor organizations everywhere responded with gladness to that proposition ; and as soon as it was settled that the World’s Fair should be held somewhere in the United States, Chicago workmen put forth their claim to Chicago as the proper geographical point to have a world’s exposition located. They backed up their request that Chicago should be the place, with petitions from labor organizations throughout the United States, to such an extent that Senator Hawley was able to stand up in the Congress of the United States and say, ‘I hold in my hand petitions from organized labor from every State in the Union, except New York, asking that the Fair shall be located in Chicago.’ That Fair was located there. But even before it was located there, the demand was made by Congress that Chicago should show its ability to conduct that Fair, by subscribing for ten millions of her stock. The workmen put their hands into their pockets, and with dimes and fifty-cent pieces and dollars subscribed for half a million of the stock.

“What did the Church do ? Did the churches demand that there

should be an exposition of the world's products and man's ingenuity? If they did, they did it silently. The workmen responded in this substantial fashion; and since then they have built the Fair, and consecrated it with their blood. Hundreds and hundreds of workmen have been killed and maimed in the construction of that mighty work. And I think that because of these reasons, what we have to say should have additional weight attached to it.

“Not only that; but giving all due credit to the master minds who designed and planned that wonderful exposition,—giving them all due credit,—the products exhibited there come from this kind of hands. [Holding up his own labor-hardened hands.] And after we have built the Fair, sacrificed our lives in doing so, after we have contributed by our ingenuity and labor in placing there the exhibits, these men, who had no hand in it, neither in designing, constructing, or in anything else connected with it, have come and shut the gate and *turned the lock* on us workmen! And then they come here with the miserable plea that they are instructed, that they are justified in speaking for labor! It is absolutely astounding, the assumption these men have in making their plea. I cannot comprehend how they could risk their reputation for veracity, for honesty, and for truth,—and that is all the stock in trade that the clergy have, and if that is lost, they are gone—how they could risk their veracity and honesty in making these statements. One of them comes here this morning, and says, ‘I hold a petition from a labor Union in New York City.’ What labor Union?”

“*Rev. Mr. W. F. Crafts.*—The engineers of the United States

“*Mr. Morgan.*—Who?”

“*Mr. Crafts.*—The Brotherhood of Locomotive Engineers.

“*Mr. Morgan.*—No! Look here; that claim, that statement that is made, that they do not duplicate things is basely, maliciously false. They *do* duplicate things. And they bring in a single petition from one of the local Unions in the State of New York, and you make people believe you have got another organization.

“*Mr. Crafts.*—Oh, no.

“*Mr. Morgan.*—Well, of course my comprehensive faculties are not equal to grasp your way of managing these things. [Laughter.] Another statement is made that because the engineers of the United States speak, that settles the question; that they are the most intelligent of all workmen in the United States. I absolutely repudiate that statement.”

[Here Mr. Morgan spoke a few words touching some rather personal matters between the organization which he represented and the organization of engineers, which we

think it best for us not to seem to take any part in, by printing and circulating as widely as this document will be spread.
— PUBLISHERS.]

“Then the plea is made that the opening of the Fair will necessitate extra work upon the part of the engineers. Let me call your attention to this fact, that if the World’s Fair is closed on Sunday, people will be absolutely prohibited from enjoying its privileges on that day. That day will be given to traveling. Men will start on Sunday, reach Chicago Sunday night or Monday, spend the week at the Fair, take the train at the latest hour Saturday night or the earliest hour Sunday morning.

“*Mr. Durborow.*—Mr. Morgan, you have been speaking just twenty-five minutes, and have consumed the time allotted to you. I understand that you desire Mr. Askew to follow you, and unless you give way to him, of course you would occupy his time.

“*Mr. Morgan.*—O, excuse me, Mr. Chairman; I did not think I had been talking so long. But really I would like to have a little more time. I have a paper here which I would like very much to present.

“*Mr. Durborow.*—If you have the consent of the other speakers, of course it will be all right.

“*Dr. H. W. Thomas.*—I will give you my time.

“*Mr. Durborow.*—Simply state a synopsis of your paper if you can, and give it as quickly as possible.

“*Mr. Morgan.*—I will read it as rapidly as possible, and you can read it at your leisure.

“[Reading.] In regard to the religious side of this matter, I wish to say that the workingmen attribute the action of Congress in closing the World’s Fair on Sunday to the activity and influence of the Protestant evangelical churches, and that in the accomplishment of its purpose, the representatives of these churches assume to be the guardians of the economical and moral interests of the working people, and in their name and behalf, urge Congress to close the gates of the World’s Fair on Sunday.

“We are here duly authorized by the only organized and formal movement made by workingmen in relation to the closing of the Fair on Sunday, to absolutely deny the right of these churches or their representatives to speak or act for us in this matter, and to prove to you by documentary evidence we present that all such representations made to Congress by these churches were wilfully or ignorantly fraudulent.

“In this connection we desire to call the attention of congressmen who may have been influenced by the action of these churches, and who are sincerely interested in the religious side of this question, to the fact that the indifference or active antagonism of the working classes toward the Church

is at present, and has been for years past, a subject of the most serious consideration by the clergy. We respectfully represent that one of the principal causes of this latent and active hostility to the Church is due to the fact that its representatives are so far removed economically and socially from the wage-working classes as to entirely fail to understand their wants, desires, and aspirations; and hence, as a result, when they do speak in our name, they misrepresent us, as they have in this case. This has occurred so frequently and universally that the respect and reverence for the Church held by the working people in the past, has been destroyed to such an extent that the Church itself has become alarmed. With a few exceptions, and upon rare occasions, a suggestion to have a clergyman open or participate in our conventions or mass-meetings would be met with contemptuous ridicule. Tens of thousands of wage-workers who like myself have passed from infancy to manhood within the folds of the Church, and in being forced from it have retained a fervid love for the moral principles taught by the Carpenter of Nazareth; realize not only the wickedness embodied in the acts of the clergy in shutting the workers out of the Fair, but also understand the effect it will have in further alienating the working classes from, and intensifying their hostility toward, the Church.

“ Speaking as we do, with this intimate personal knowledge, we respectfully, but most earnestly, urge congressmen who have been influenced by religious considerations, to undo this ill-advised and injurious act of the Church.

“ Rev. Mr. Martyn, in advocating the closing of the Fair on Sunday, declared that neither literature nor art had any effect whatever upon the moral status of the people. Our reply is that this statement is a libel upon literature and art and a monstrous insult to all scholars and artists, and an absolute denial of the advantages of secular education; whereas we insist that every advance in general knowledge is necessarily an advance in public morals, and that the knowledge of individuals, and hence their moral status, is affected largely by their environment.

“ Place a workingman within the gates of the World's Fair, bring him in contact with the wonders of nature as there shown, and the marvels of man's production gathered from the whole world, and in open-eyed wonder he will be lifted out of his ordinary self, all his lowest and basest instincts and habits will be for the time submerged, and deep into his mind and heart will be pressed, as never before, a comprehension of nature's varied resources, and the limitless ingenuity and power of the human mind, which will ever after be a profitable source of reflection, a subject of conversation, instructive alike to himself and his associates, that must necessarily make him a better man, a more skillful, and hence a more valuable worker and a more useful citizen.

"These conclusions are reached not from abstract reasoning, but through practical personal experience, and were I a clergyman or an active member of the Church, having the moral welfare of the people at heart, I would consider it an imperative duty not only to open wide the gates of the Fair on Sunday, but to advocate the organization of special means to bring the masses within its intellectual and moral influences on that particular day.

"In the consideration of the moral side of the subject, I asserted that the influence of a visit to the World's Fair would make the laboring man a more skillful, and hence a more valuable worker. To the great army of unknown inventors a day in the World's Fair would be an inspiration of inestimable value, not alone to themselves, but to the nation and to the human race. Again I speak from actual experience, being personally benefited by visits to expositions similar in character to the World's Fair, but in size and scope comparatively insignificant.

"Those guarding the industrial and commercial interests of Great Britain and France thoroughly understand this view of the case. In Birmingham, England, where I came from, one of the greatest manufacturing towns in the world, such exhibits on a small scale were permanent institutions. Special delegations of workers were regularly sent to the world's expositions of London and Paris, and from personal conversation with one of the French workmen delegated to visit the Centennial and the exposition at Vienna, I learned that the French people were equally alert to the importance of this particular matter.

"I am also advised by one of my associates, actively interested and aiding in this work of opening the gates of the World's Fair on Sunday, that in Germany, in the industrial towns along the Rhine, the workingmen's societies regularly sent delegations to both London and Paris to report upon the exhibits relating to their particular trades; and that such visits were so arranged, for economical reasons, that the delegates reached Vienna or Paris on Saturday night or Sunday morning, visited the exposition during Sunday, and departed for home Sunday night and Monday morning.

"Comparatively few of the workers in the United States have had the advantage of those stimuli to thought and invention, nor have the manufacturing and commercial class as yet reached a full realization of its importance. Hence I press this view of the matter, hoping that it may aid in opening the gates of the World's Fair on Sunday to the hundreds of thousands of workers in Chicago and its neighboring towns, and to encourage by that privilege the visits of as many wage-workers throughout the nation as may by months of self-denial and sacrifice save sufficient to pay the expenses of a visit to the World's Fair, such visit being necessarily limited to a few days."

Now I return to my own speech, where it was interrupted by the Chairman of the committee.

Mr. Jones.—Well, very good. I will take it, then, that Congress knew what they were doing. Here is the record of it in the Senate; that is where this part of the legislation began; because the legislation in the House touched only the closing of *the government exhibit*, and passed the House that way, and said nothing about closing *the Fair* on Sunday. When it came to the Senate, there this part of the legislation originated. I shall read from the *Congressional Record* of July 10, 12, and 13, 1892.

Mr. Durborow.—Well, it is no use to read that here. We are more familiar with that than you are yourself. What we are after is modification of the existing law.

Mr. Jones.—Certainly.

Mr. Durborow.—Now if you will argue on the point of the modification of the law, the benefits why this law should be changed and modified in accordance with the resolutions that are before this committee—that is what this committee has these hearings for.

Mr. Jones.—Well, that is what I am doing. I have given the Constitution as it provides, prohibiting this legislation; and when the Constitution prohibits it, then ought not the legislation to be undone?

Mr. Durborow.—This is not the place to argue that question.¹

Mr. Little.—I think you perhaps misunderstand the legislation that has already been taken. I agree with you as to the Constitution. But this legislation makes an appropriation, and accompanies the appropriation with the condition that the Fair should be closed on Sunday. For instance, you

¹At this point and by this statement, I would have been shut out entirely, had not other members of the committee asked questions which enabled me to fill up the time. And although it was his purpose to shut out the constitutional argument, yet the questions asked by others still brought up at every point the constitutional principle.

have no right to say to a gentleman walking along the street, You shall not go into that saloon ; but if you give him \$5, you have the right to connect with it the condition that he shall not spend it in the saloon.¹

Mr. Jones.—I see your point. The argument has been made, and it was made when the legislation was before the Senate, that as Congress was appropriating the money, it had the right to put whatever restrictions it considered proper upon the use of the money.

Mr. Little.—But they were not forced to take the money.

Mr. Jones.—Certainly. But I deny that proposition. Congress had the right to put whatever *civil* restrictions she pleased upon the use of the money ; Congress had no right under the Constitution, to put any *religious* restriction at all upon the use of the money.

Mr. Little.—Is it a religious restriction ?

Mr. Jones.—Yes, sir ; it is religious legislation entirely.

Mr. Houk.—Do you believe that it would be right for Congress to say that the Fair should be closed one day in seven ?

Mr. Jones.—No, it would not be proper, for it all rests upon religious ground, and that is the only ground upon which Sunday observance or Sunday recognition rests. And the claim that the legislation was in the interests of the working-men is contrary to the proceedings of the Senate. Senator Hawley said plainly, “Everybody knows what the foundation is ; it is founded in religious belief.” Senator Peffer said, “To-day we are engaged in a theological discussion as to the observance of the first day of the week.” So that they

¹ This is not admitted. For we have no right to bribe a man, even not to drink. And if Congress did this act upon this principle, as is here suggested, then it did add to the other evils of this legislation the element of bribery. And in fact this is precisely the view of it which has already been held by the American Sabbath Union. The President of the Sabbath Union has published that this act of Congress “puts a premium of \$2,500,000 on doing right. It proves in a concrete way that ‘godliness hath great gain.’” And this whole idea we repudiate with all the rest of the evil thing.

considered it as religious, and religious only. Now, I repeat, they had no right under the Constitution, to put any religious restriction upon it. When they put that restriction there, and said that the directors should sign an agreement to close the World's Fair on Sunday, on the "Christian Sabbath," as Congress declared Sunday to be, before they could receive any money; they had just as much right to say that the World's Fair directory should sign an agreement to submit to Christian baptism before they could receive any of the appropriation.

Voice.—Or try Dr. Briggs.

Mr. Jones.—Yes. When Congress put upon this appropriation the condition that the directory should sign an agreement to shut that Fair on the "Lord's day," as Congress declared Sunday to be, before they could receive any of the money, Congress had just as much right to require that the World's Fair Committee should observe the Lord's supper before they could get any of the money. Hence, if Congress can define what the Christian Sabbath is, they can require anything else in the Christian religion.

Voice.—That is so.

Voice.—Is not this a Christian nation?

Mr. Jones.—No, of course not.

Mr. Jones.—When they go beyond the Constitution in one point for religion's sake, they can go beyond it on every point. What Congress has done in this respect in favor of Sunday only opens the way to do whatever else may be demanded by those who have secured this. And *it will be demanded*, for the *Christian Statesman*, whose editor is in the hall, has said that "the great Christian majority has learned, by response to its great petition, and its host of letters with reference to the World's Fair, that it can have of national and State governments whatever legislation against immorality it will ask unitedly and earnestly." And a preacher in Pittsburgh, as soon as this bill had passed Congress, declared in a

sermon: "That the Church has weight with great political or governing bodies has been demonstrated most effectually in the late World's Fair matter, when the United States Senate, the highest body in the country, listened to the voice of religion and passed the World's Fair five million appropriation bill with the Church-instituted proviso that the gates of the great Exposition should not be opened upon Sunday. That grand good fact suggests to the Christian's mind that if this may be done, so may other equally needful measures. The Church is gaining power continually, and its voice will be heard in the future much oftener than in the past."

Voice.—The statement of an individual.

Mr Jones.—No, not the statement of an individual only; it is representative, because those who secured the legislation, those who presented the petition,—they did it as a grand combination, not as individuals, but as a combination. The National Reform Association, the American Sabbath Union, and the whole combination put together,—they worked for it for religious reasons; they demanded it upon religious grounds only, and did it as religious. The basis of it was declared to be the fourth commandment, when Senator Quay sent up his Bible to the Secretary of the Senate to be read there. Here it is in the *Record*. Who will deny that the fourth commandment is religious? Who will deny that the fourth commandment as given in the Bible is religious, and that the Bible itself is religious? I appeal to this committee: Has the Congress of the United States a right to put that Bible into its legislation and to make *that* the basis of legislation in this government?—No, sirs; the CONSTITUTION is the basis of legislation by Congress, and not the Bible. And the Constitution has shut religious questions from the consideration of Congress, and therefore has shut the Bible out of legislation by Congress. But the Bible was sent up that day, and this is the record:—

Mr. Quay.— On page 122, line 13, after the word ‘act,’ I move to insert : —

“ ‘And that provision has been made by the proper authority for the closing of the Exposition on the Sabbath-day.’ ”

“ The reasons for the amendment I will send to the desk to be read. The Secretary will have the kindness to read from the Book of Law I send to the desk, the part inclosed in brackets. ”

The Vice-President.— The part indicated will be read.

“ The Secretary read as follows : —

“ ‘Remember the Sabbath-day to keep it holy.’ ”

Mr. Jones.— You know the fourth commandment : I need not read it.

Voice.— Read it all.

Mr. Jones.— “ Six days shalt thou labor and do all thy work ; but the seventh day is the Sabbath of the Lord thy God : in it thou shalt not do any work, thou, nor thy son, nor thy daughter, thy manservant, nor thy maidservant, nor thy cattle, nor thy stranger that is within thy gates ; for in six days the Lord made heaven and earth, the sea, and all that in them is, and rested the seventh day : wherefore the Lord blessed the Sabbath day, and hallowed it. ”

Voice.— Is that the seventh day or the first day ?

Mr. Jones.— The commandment says the seventh day, but in the face of this plain declaration of the Lord that the seventh day is the Sabbath of the Lord, the Senate has put its own interpretation upon that commandment, and has declared that the statement that “ the seventh day is the Sabbath ” means “ the first day of the week, commonly called Sunday. ” Thus the Congress of the United States has taken the fourth commandment from the Bible and put it into its legislation, and has put its own interpretation upon that statute. If Congress can interpret the Bible in one point, it can interpret it on every other point. So that when it went beyond the Constitution of this country in this thing, it has put itself and the government in line with all the Church-and-State governments that have ever been,

and has assumed to itself to be the interpreter of the Bible for all the people in the land, and for all who come into the land. That is what has been done.

Mr. Houk.—Your argument is, then, that the quotation of that commandment by Senator Quay, and the insertion of that, incorporates the fourth commandment and the whole Bible into the legislation of this country?

Mr. Jones.—In principle it does. (Laughter.) Why not? What is to hinder it? When they can incorporate one part of the Bible for this occasion, what is to hinder their incorporating every other part of the Bible as other occasions may be presented? And therefore it is true that the incorporation of this part of the Bible here, does, in principle, incorporate the whole.

Mr. Houk.—That is a kind of general way to get God into the Constitution.

Mr. Jones.—Exactly. And that is what these are rejoicing at who have wanted all these years to put God into the Constitution. And that is why they say now, “We can have all we want, when we ask unitedly for it.” And this is true. This does give them all they wanted; for when Congress can do that in one point, who will deny its right to do it in any other point? When the principle is once established, the thing is all done. But it did put the fourth commandment there as giving the reason why the Fair should be closed Sunday, and as forming the basis of the legislation upon this question.

Mr. Durborow.—Now was the reading of the commandment an organic act of the Senate, of Congress, in doing any such thing as that?

Mr. Jones.—It *was* the organic act of Congress, because it was an inseparable part of the legislation itself: it was given as the basis of the legislation, and as containing the reasons for it.

Mr. Houk. — Then anything that a member says incorporates it in the act?

Mr. Jones. — Oh no, not necessarily. But let us consider how this was brought in. Senator Quay proposed an amendment. The House had passed a bill to close the *government exhibit*, letting the Fair alone. When it went to the Senate, Senator Quay introduced an amendment to close the whole Fair. His amendment was, "that provision has been made by the proper authority for closing the Exposition on the Sabbath-day." That was the first step taken in Congress on the subject of closing the Fair, not the government exhibit, but closing the Fair. The Senate took that step, and in the taking of it, the fourth commandment was quoted by him who offered the amendment, and was adopted by the Senate as the basis, and as giving the reasons for the amendment. Now when this commandment was given by him, and read afterward by the secretary from the desk, as the basis of that amendment, and as containing the reasons for the legislation that was in the amendment, and when the Senate adopted that amendment by changing it to the first day of the week and calling it Sunday, and then the House confirmed their decision, — then it is as plain as day that the fourth commandment is put there and embodied in the legislation of the country by the definite act of Congress.

[The clock struck twelve and the time expired.]

Mr. Durborow announced that the time had expired, and said, "This will bring the discussion to a close for this day."

That closed the hearing for that day. The chairman had shut out the constitutional argument and refused to have that go before the committee. Seeing that this was so done, the American Sabbath Union knew that their cause was safe; and after the hearing was over, they simply stepped outside the door in the entry way, and called a meeting of their Union, and passed a vote of thanks to the Lord for preserv-

ing the American Sabbath. They knew that when the constitutional argument was shut out, they had all they wanted.

The next day Elliott F. Shepard made the opening speech, and note how he started. The only thing that makes a congressman is the Constitution of the United States. He has no authority in this world but such as the Constitution gives him, and he has no right to listen to any argument that would not come within the Constitution. But they shut that out, and now see what they did listen to in the speeches that followed : —

REMARKS BY COL. ELLIOTT F. SHEPARD.

“I approach this subject with great reverence. When we come *to deal with heavenly things*, we should *put aside earthly things*, and should do very much as the Jews used to do in the temple at Jerusalem ; before they made their offerings, before they entered upon the service, they prepared themselves by ablution and by prayer for the proper discharge of their duties. Now when we come to consider the Sabbath, that it rests upon the law of God, that it is a revelation to mankind which no one would have thought of, that we owe it entirely to our Father which is in heaven, we ought therefore to come with the same reverential spirit to its consideration ourselves. . . . We represent the Christian sentiment of the United States of America. . . .

“We hope that Congress will maintain its dignity. We have resolved not to say one single word as to the constitutionality or unconstitutionality of this law before this committee ; for to claim that it is unconstitutional here would be a reflection upon the committee, upon both Houses of Congress, and upon the President of the United States who approved this law. And you yourself very wisely took that last consideration entirely out from before the committee when you stated this was not the place to argue that question. Therefore we dismiss it without saying a single word. . . .

“When our blessed Lord was incarnate in Palestine, he approved and magnified that law, saying, ‘I come not to destroy, but to fulfill.’ And then he gives another point on the Sabbath, which was, that the ‘Sabbath was made for man, and not man for the Sabbath ;’ and that ‘the Son of man,’ our Lord, ‘is Lord also of the Sabbath.’ In other words, it is a part of his patrimony, given to him by our Father who is in heaven, and *every one who attempts to cut it off in any way robs Jesus himself*. . . .

“And on the other hand, when we talk of elevating the people and lifting them up higher, can we get any higher principle, or any higher method of doing this, than that which was adopted by our blessed Lord himself? Not at all. And is it not rather to be thought that *these people who are especially consecrated to the service of God*, are better able, through their consecration, and through their education, *to inculcate what will best elevate the people*, than those who are ignorant of that sort of connection, and approach the subject from a lower and entirely different standpoint?

“Now this day we are to present to you in brief speeches, the sentiments of the Christian Church and the common people of the United States in the various branches of that Church, and without any further introduction, I will ask that the roll should now be taken up.”

Joseph Cook, of Boston, closed his speech with these words : —

“Sunday is the tallest of the white angels now entering foreign lands. Shall we consent to allow Chicago now to rise up and stab this angel in the back, in our country? And shall we call down the goddess of liberty from the Capitol to assist at the murder? God forbid.”

Rev. T. A. Fernley, of Philadelphia, in his speech, told the committee that there was no authority for reconsidering the question, because there was no new evidence presented; that there was not a single new reason before the committee for opening the Fair on Sunday. And he said that therefore, “the only possible ground upon which you can reconsider this question is its unconstitutionality.” This confirmed the position that the chairman had refused to hear from us; so that everything they objected to from us, they got from somebody else.

They went on — not with heavenly arguments by any means — but proposing to “consider heavenly things.” They reined the committee up before the Judgment. Yes, “the Judgment will sit, and in that day it will be a consolation to know that you have acted right in the maintenance of the Sabbath to-day.” Here is part of a speech made by C. B. Botsford, President of the Massachusetts Sunday Protective League, before the committee : —

“Mr Chairman and gentlemen of the committee, and the friends and opponents of this measure : Allow me to call attention to one thing, and that is a fact to which we all assent. None of this company may be here in 1993. At that time all of us shall be of one mind in regard to the value and sacredness of the Lord's day ; for the sentence has gone forth, against every man, ‘Set thine house in order.’

“‘How fast they fall !

Those we have known,
As leaves from autumn branches grown,
Are quickly seared.’

“But while men die, the nation lives. May the God of nations so guide us and our posterity that ‘America’ may be sung until the end of time.”

Another, Rev. C. C. Adams, of Boston, representing the Evangelical Alliance, struck a regular religious revival key, and rung in the regulation death-bed scene. Here it is :—

“*Mr. Durborow.*—Rev. Adams, you will have three minutes.

“*Rev. Adams.*—I represent, sir, the Evangelical Alliance of Boston and its vicinity, comprising over four hundred ministers, who have put this document into my hands, which I shall present to you at their request :—

“‘The Evangelical Alliance of Boston and vicinity beg leave to present their unanimous and earnest protest against the proposed repeal of the act requiring the gates of the Columbian Exposition to be closed on the Lord's day. That act gave proper expression to the Christian judgment of this Christian nation, and its repeal would be a grievous injustice to our history, our character, and our hopes as a people.’

“This paper, sir, was passed unanimously, Dr. Lorimer being present at the meeting of the Evangelical Alliance.

“Mr. Chairman, when it pleased God to found this nation, he chose out of all the nations the very cream of the world,—the Huguenots of France, the Scotch and Scotch Irish of Scotland, the English, the Puritans, the Quakers, from England, the Dutch from Holland ;—they came here and laid the foundation of this great Republic. The basis upon which they built was that of the Bible, the school, and the Sabbath. These, sir, are the great tap roots from which has sprung the great institutions of this country. To me it is a terrible thought that men would come now in this nineteenth century, after four hundred years of phenomenal progress, having attained to the position of being the richest and grandest nation of the world, that men would come now to hack at the root of that great fundamental principle of our government and of our people.

“Three weeks ago it was my painful duty to stand on the verge of eternity, and endeavor to hold back a great spirit that was about to leave

me. My feet almdst touched the water. One spirit had to go, and I had to stay in the darkness. I trust, sir, that it will be many years before you or any member of this committee shall stand where I did. I felt myself on the verge of eternity. *But that day must come to each of us, and when it comes, sir, let me say to you, as a closing word on the side of the evangelical ministry of this country and the evangelical church of this country, it will be a pleasant recollection to come back to this period of your tremendous responsibility, and to feel that you, gentlemen, have stood by the side, and to the preservation, of God's holy day.*"

Rev. Green Clay Smith said : —

"The closer we adhere to the word of God as it has been interpreted for centuries by the wisest and best of men, following the good old path of our fathers, the better will it be for our nation and the human family. . . .

"We come hereto ask you courteously, but with earnestness not to abandon this law. . . .

"Christ is looking on to see if his people will revere his name and respect the day he honored as his own, and teach all nations to follow it as he has commanded."

The claim that this is a Christian nation, upon the authority of the decision of the Supreme Court of the United States, Feb. 29, 1892, was urged strongly and often; and that therefore Congress *should* close the Fair on Sunday as the Christian Sabbath. A printed argument(?) by a lawyer, a judge—S. B. Davis—of Terre Haute, Indiana, was sent up there, and distributed in piles on the tables of the committee, in which is the following :—

"The object of this brief is to call attention to the constitutional question raised on the Sunday laws, and to show that if it were granted that the act of Congress fell within the definition of a law, still there is no constitutional objection to it or to any legislation affecting Sunday.

"No longer ago than last February the Supreme Court of the United States, in an opinion delivered by Mr. Justice Brewer, unanimously decided that —

" ' This is a Christian nation. ' "

" ' Rector, etc., Church of the Holy Trinity vs. the U. S. ' Decided Feb. 29, 1892. This decision is based upon impregnable foundations, both legal and historical.

“The common law of England is the law administered in all of the courts, Federal and State, except where modified by statutes.

“Blackstone says that ‘Christianity is a part of the laws of England.’ And it has been stated by courts of this country, frequently, that, ‘Christianity is a part of the laws of the land.’

“The Supreme Court of the United States says, ‘This is a Christian nation.’ What is it to be a Christian nation? ‘It is a nation which is governed under Christian institutions in distinction from heathen or Moham-medan.’ The seventh day of time has been recognized by the great mass of people in the so-called Christian nations as a Christian institution, beneficial in its observance upon people, and a physical necessity. Therefore the governments, Federal and State, have incorporated it, in one form and another, into their laws.

“The real question, therefore, is, Shall the nation or the State set the example of violation of law? . . . The conscience of the Christian world protests.”

And Herrick Johnson, D. D., of Chicago, speaking for the whole religious combination, in answer to a statement that this is not a Christian nation, said : —

“The second point of the Mayor : ‘This is not a Christian nation.’ [It was not the Mayor who said it, but this is immaterial. — A. T. J.] Here the Mayor of Chicago and the United States Supreme Court differ, the Supreme Court having decided last February in express terms that this is a Christian nation. The Mayor might give us points for running a municipal government, but on a question of constitutional law we prefer the Supreme Court.”

Rev. Dr. Hunter said : —

“Gentlemen : I am authorized to speak for one and a half million Christian Endeavorers, who have spoken in the majority of their more than two thousand societies from every State in the Union, in District and State Conventions. . . .

“We hold that Congress was inside one of its legitimate functions when it conditioned the appropriation of two and one half million dollars upon the closing of the gates on Sunday ; and with the Supreme Court of the United States, we hold that Congress had the right to take this action. Ours is a religious people. We hold that religion is a part of the common law. The Supreme Court of Feb. 29, 1892, says : —

“‘There is a universal language pervading them all, having one mean-

ing. They affirm and re-affirm that this is a religious nation. These are not individual sayings, declarations of private persons; they are organic utterances; they speak the voice of the entire people.' "

If anybody is inclined to think that that Supreme Court decision and declaration is of little consequence, I wish he had only been there to see and hear the use that was made of it, and how it was made the foundation of their claims and their efforts.¹

The climax of the whole thing was reached, however, when Rev. F. H. Mc Carrell, of Pennsylvania, threatened the curse of God upon the whole nation, if their wishes in regard to Sunday were not complied with. Here are his words on this point:—

"There is just one general reason, Mr. Chairman and gentlemen of the committee, I would like to give why the gates of this Fair ought to be kept closed on the Sabbath. If these gates are open on the Sabbath, it will be perilous to us as a nation, and it will be perilous to Chicago, and to the interests of the Fair. There is one thing we are to remember; and that is, that *God still reigns*. God is still on the throne. *God has not abdicated*; and he has declared that the nation or the kingdom that will not serve him shall perish. And more than this, we are to remember that the ten commandments are the very basis of all of our laws, national and State, which subserve our liberties and our rights. . . . Now here is the fourth commandment in the very heart of these ten commandments, and that has never been repealed any more than has the fifth commandment, or the sixth commandment, or the seventh commandment, or the eighth commandment. And therefore we are to remember that if we touch this commandment of God, standing thus in the very heart of these ten commandments, we touch the honor of God; we touch the law of God, for Christ has emphasized that fourth commandment. He said the Sabbath was made for man. What did he mean by that? He meant thereby that it was not made for the Jew only, but for man everywhere, in every age and in every condition. He said the Sabbath was made for man. It was made for man in all ages, in all time. He said the Sabbath was made for man; it was made for man's highest good in every age of the world, for his good morally and physically.

¹ For a copy and a full review of this Supreme Court decision, and the original legislation on this Sunday-closing question, see *Sentinel Library*, No. 53. 43 Bond St., New York City, or Pacific Press, Oakland, California; price 15 cents.

“And therefore it is, dear friends, if we touch that fourth commandment, which lies at the very root of all other commandments, we touch the honor of God and the commandments of God. It has never been repealed, and *if we touch that* God will bring *a curse upon us as a nation*, because he distinctly told his people anciently that he would punish them for profanation of his Sabbath-day. And therefore it is, dear friends, that we as a nation cannot afford to touch this commandment. What it becomes us to do is, therefore, to set to the nations of the world a good example of the American Sabbath; set them an example of the Christian Sabbath; set them an example of the Sabbath as God has ordained it.”

Now the Constitution of the United States is the only thing in existence that gives to any member of Congress, senator, or representative, any power or authority. He owes his very existence, as a member of that body, to the Constitution. The Constitution defines his powers and the limitations of the exercise thereof. This is his only legitimate guide. That Constitution has not only not delegated to Congress any power in, over, or concerning matters of religion, but has specially prohibited it from exercising any power in, over, or concerning such matters.

But the undeniable record in this case shows that this committee of Congress did expressly and intentionally exclude from its consideration an argument based solely and exclusively upon the Constitution, and in this the committee did exclude from its consideration the Constitution itself; and instead of the Constitution, or questions or argument based upon the Constitution, which is the only authority for the action or even the existence of the committee or of Congress, the committee did sit in consideration of a religious question wholly, of “heavenly things” indeed, and did admit argument upon a religious basis only, from representatives of religious bodies only, all of which the committee is expressly prohibited by the Constitution from considering at all.

Could there possibly be a more complete reversal of the order of things established and intended by those who made

our national government and its Constitution? Could there possibly be a more direct revolution than has been accomplished in this case, in its inception, in its conduct, and as it stands to-day?

As for ourselves personally, we are perfectly content to be shut out, with our arguments, from being heard by a committee of Congress, when, in order to do it, the committee is obliged to shut out the Constitution itself from its consideration. We have always stood with the Constitution, pleading its provisions as they stand, and as they were intended by those who made it. There is where we stand now and ever. And with the Constitution we are willing to be excluded from the consideration of Congress. Abiding by the Constitution as it is, and as it was intended to be, on this question, we are in most excellent company.

Following is the argument of Mrs. Marion F. Washburne before the committee, Jan. 12, 1893:—

SPEECH OF MRS. MARION FOSTER WASHBURN.

“Mr. Chairman, Gentlemen of the Committee :

“Yesterday, I, together with the other delegates of the Chicago Woman’s Club, had the pleasure of listening to the arguments in favor of Sunday closing. Before I attempt to make any new points,—if any can be made after all this talking,—it might be advisable to answer some of the arguments advanced at that time. It may seem somewhat presumptuous for one feeble woman to endeavor to reply to such able and practiced speakers as were before you yesterday, if it were not for two things,—First, that I am as much in earnest in my belief that the Sunday opening will “work for righteousness,” as they are in the opposite view, and I have that courage of my convictions which is the birth-right of every American; and second, that the reverend gentlemen so kindly lessened my task for me by answering so many of their own arguments.

“To be explicit—the charge of greed, of self-seeking, and of many other malicious forms of selfishness was brought against, not only Chicago,

but the managers of the Fair, its directory, and the gentlemen of this committee themselves, as the only motive which could possibly influence them to give this resolution a fair hearing. But a number of the other speakers knocked down this house of cards, by declaring most emphatically that to open the Fair on Sunday would be to lose money. How can greed lead us into a money-losing scheme? Both arguments cannot be good, and you are invited to take your choice, to either declare yourselves the unprincipled money-grabbers which these gentlemen did not hesitate to call you, or to say that you really believe that if the World's Fair were opened on Sunday, no one would attend!

“Then the diversity of opinion as to the correct way to address a congressional committee, was very marked and very puzzling. Some of them seemed to think that this was a Sunday-school convention, and exhorted accordingly, not hesitating to call down upon the patient committeemen, vengeance from on high if special sectarian views did not entirely rule the legislature. Others, however, rebuked their brother ministers for this untimely sermonizing and declared in so many words that talk about religion was not to the point, and ‘that Congress’ — I am quoting here — ‘was not a tract society to distribute tracts on religious freedom.’ I quite agree with the doctor. It is not a tract society for tracts either on religious freedom or on the fourth commandment. Its business is, as he said, to legislate for the rights of the people, and one of our immemorial rights is the right to worship God, each in his own way, whether in the church, in the silence of his inmost soul, or in the vast and impressive display of the highest of God's works, as shown to man.

“There was presented here the extraordinary spectacle of a *business* man declaring that the argument was one of *religious* feeling entirely, and of men vowed to *religion*, declaring that they spoke only from a *business* point of view. It was as if each distrusted the validity of the argument on the ground wherewith his life work had made him familiar, and believed himself safer on unknown territory. It reminds one of the story of the polyglot American who was said by his German friends to speak beautiful French, and by his French friends to speak beautiful German. There was not a business man here yesterday but saw the weakness of the *business* arguments, nor a clergyman but saw the flaws in the *theological* ones.

“There was one argument,— I mean, one bit of vituperation, which, as a Chicagoan I must really resent,— though it is hardly worth while,— and that is that it would be dishonorable in the city to use the money voted by Congress without accepting the condition attached. Now these gentlemen must know there has been no talk of that. But there is nothing dishonorable in asking Congress to remove a restriction which greatly decreases the

value of its gift. The fact that it has been so petitioned shows that Chicago feels herself uncomfortably bound by her honorable obligations, and would be glad to have them honorably removed.

“And, Mr. Chairman, and gentlemen of the committee, wasn't it a little hard, weren't you a little humbled, to hear this reverend body of petitioners 'talk down' to you? There were few of them who had any faith that you would be moved by any high religious or moral considerations. Most of them openly scoffed at the idea. And some of these men, pledged by their profession to avoid envy, malice, and all uncharitableness, not only implied the low moral tone of the men they were addressing, but said openly — I quote verbatim — that 'all the World's Fair was on the make,' and again that 'the milk in the cocoanut was the Sunday fee.' Would these gentlemen, whose business it is to uplift the people and the English language, have used these expressions before an ordinarily respectable church audience? But it was evidently considered the sort of thing that congressmen are used to. Moreover, they threatened — and of all things, the boycott! The very tactics they preach against from their pulpits. And one man said that the 'religious boycott was justified by the deep prejudices of the people.'

“I have a profound respect and reverence, as all fair-minded people must have, for the man who believes in his religion and stands upon it against the world; but I have precious little respect for the clergyman, who, when he wants to win a worldly advantage, uses a worldly argument, making the admission that the heavenly one is insufficient for practical purposes. The man who claims to have faith in prayer, and yet descends to the boycott!

“I am aware that we who stand *for* the Sunday opening, make a poor show against the several millions of population (not counting families) which each one of these versatile men was able to represent here yesterday. I myself do not claim to represent more than a few hundred thousand. I am, perhaps, a little modest in this estimate, but modesty becomes a woman, if not a clergyman. [Laughter.] Joking aside, I know that we cannot possibly make as good a showing as some church societies, and the reason is that we are not organized as they are. The great mass of liberal and thoughtful people all over the country are not so organized that they can act as one, before such a committee, but their numbers may be — nay are — even greater than those contained in the societies here represented. They are simply quiet and tolerant private citizens, who, for the most part, are rather amused that any one should be intolerant. But while this organization of the evangelical churches gives them an advantage in being able to present petitions and speakers, *it is, gentlemen, a danger!* Our forefathers foresaw the danger of an organized minority coercing an un-

organized majority, and forbade this country a standing army ; there is as much danger, or, as the history of religious persecution shows, *more danger, in the interference of an organized body of churchmen in the affairs of the State*, than in a standing army. Nothing can so undermine the liberty of a people as a belief that there is but one road to salvation, which all must walk, if not willingly, then by force.

“Did you notice the little remarks about Sunday traffic and Sunday mails, yesterday ? Logically, if the arguments of these deluded leaders be held as valid for the closing of the World’s Fair, they must be held as valid against Sunday trains. Who seriously supposes that Congress would ever think of suppressing Sunday travel, because of the religious prejudices of the people, whatever the Society of Christian Endeavor might say. Why, such an attempt would bring about a revolution — which shows what is the real sentiment of the vast bulk of the people.

“I am a Chicagoan, and might possibly prove the fact by being a little boastful and claiming the earth ; but I do not think Chicago, nor even my loved country, marshals under its banner all Christianity. In other Christian countries the art galleries and exhibits are open on Sunday, and when, as one of the speakers yesterday averred, during the last Paris exposition the American exhibit was closed on Sunday, the French government thought the matter of sufficient importance to enter a protest. Shall we, when we invite the world’s nations to be our guests, reflect upon their religious observances, and force them, in company with the immense contingent *not* represented by the gentlemen who spoke yesterday, to accept Puritan institutions or be banned as unchristian ? Shall we do all in our power to force them into a religious form against their wills ? If these nations had heard some of the denunciations hurled against their ‘decaying, unsabatarian governments,’ they would not feel that we had been courteous or fair, and might, not unjustly, assume that they had been lured hither with the World’s Fair as a gigantic bait that they might be converted to the Christian Endeavor Society.

“Gentlemen, I am myself a Christian woman, and, after yesterday, I am almost tempted to explain what I mean by that word, for the Mosaic law is not to me all comprehensive, but I follow Christ’s interpretation of this same vexed question, and would keep the Lord’s day in the spirit of him who picked corn and healed the sick, and was rebuked by the reformers of his own time, and believe with the divine Teacher before whom we all bow, that man was not made for the Sabbath, but the Sabbath for man.”

What is the situation now as the legislation stands at the latest moment before this statement goes to press? Here is an article from the *Chicago Herald*, which gives the situation, as it was immediately after the hearing, and no man can fairly deny the correctness of the description : —

“SUNDAY CLOSERS LIKELY TO WIN.

“WASHINGTON, January 13.—It is anything but an encouraging prospect which the friends of Sunday opening of the World's Fair have before them. To-night it looks very much as if the Durborow resolution would be permitted to die a natural death in the Columbian Committee. A canvass of that committee fails to show a majority in favor of reporting it, and while it is not positively known that a majority is against it, all the signs point in that direction. The hearings which have taken place during the last four days have greatly hurt the Sunday-opening cause. Not that the advocates of closing have had the best of the argument, for they have not ; but the publicity given to the matter throughout the country by this agitation has brought down upon Congress an avalanche of protests and appeals, from religious people and church organizations all over the country.

“The churches and the ministers are at work again quite as earnestly as they were a year ago, and with equal effectiveness. While there was no doubt a month ago that if a vote could have been taken upon the question of Sunday opening at once, a comfortable majority would have been found in both houses of Congress for opening, it is not now likely that the Durborow resolution can be carried through either body.

• “Of the twelve members of the Columbian Committee of the House only four can be relied upon to report favorably the Durborow resolution. General Cogswell, who was counted upon till to-day, is now wavering. *The Methodist Episcopal Church has brought some influence to bear upon him which he finds it difficult to resist.* The odds are decidedly against the resolution ever getting into the House, and even if it shall be reported, no one can find a majority in its favor. The trouble is that a large number of members who believe in Sunday opening on principle and as a matter of right *are too timid to vote their convictions in the face of the organized opposition from the churches and ministers.* These statesmen argue that the men who want the Fair open on Sunday are reasonable men, who will not permit their judgment or their votes to be affected by failure to get what they want. While on the other hand *the church people who are for Sunday closing will, if their wishes are thwarted, lose their tempers, and at the next election, make trouble for those who vote against them.*

“This sort of cowardice or caution, combined with the fact that *the*

ministers who are making Sunday closing a sort of stock-in-trade have no hesitancy about bulldozing their congressional representatives or anyone else they can get hold of, offers an explanation of the changed condition of affairs with reference to this question."

Now, generally speaking, the people who want the Fair opened on Sunday are not church people. There are, it is true, a few ministers and some laymen who favor Sunday opening; but even these are not considered by the great body of the churches to be "orthodox." So that practically and generally speaking, the people who want the Fair opened on Sunday are not church people at all. Now it is argued, that these people "are reasonable men who will not allow their judgment or their votes to be affected by failure to get what they want in this thing, while on the other hand, if the church people do not get what they want, and have their way, they "will lose their tempers" and "make trouble" for those who refuse to yield to their demands. What is this, then, but to say, and to say truly, that the church people are worse than are the people who do not belong to the church? The people who do not belong to the church are reasonable men who will not lose their tempers. The church people *will* lose their tempers and make trouble. The people who do not care for Sunday and who do not belong to the church, will behave themselves and keep civil. The church men, the worshipers of Sunday, will lose their tempers and bulldoze everybody that they can bulldoze.

Here are some words from Senator Quay, which are of importance, both because of the statements which they make and because he is the one who introduced this question in the Senate. The *Pittsburg Leader*, Jan. 2, 1893, published in an editorial the following from the Senator:—

"Congress will not reverse its action. It is not a question at all about whether the opening of the Fair on that day will or will not benefit. But if Congress were to reverse its action, it could have no other meaning than that the United States, the greatest and most prosperous nation on this

earth, had declared officially through its chosen representatives in favor of desecrating the Sabbath and thus breaking one of the commandments. And Congress will not do that."

And after this hearing had been held, and the arguments had been made for opening the Fair, it was rumored that Senator Quay had brought up the subject in a Republican caucus, with the view of having a resolution adopted opposing Sunday opening. The correspondent of the Chicago *Herald* saw the Senator and asked him about it, and received answer as follows:—

"The question was not brought up in the caucus, hence I have no hesitancy in talking about it. I did confer with a number of Republican senators as to the expediency of adopting measures to kill the proposed bill or resolution. I am free to say that the resolution opening the World's Fair on Sunday cannot pass the Senate.

"I do not care what they do in the House, and I do not care if a majority of the Senate is in favor of it. It cannot pass. I and other senators will stand here and fight it to the bitter end, and a majority even cannot pass it without adopting a cloture rule. I do not believe that a majority of the Senate are in favor of the resolution; in fact, I think the majority against it is as large as the majority in favor of the condition which we imposed in voting the appropriation. But even if the majority is on the other side, the resolution will not be permitted to pass the Senate without the adoption of a rule cutting off the right of debate and forcing a vote. The people of Chicago may as well give up this fight. They can't win it."—*Chicago Herald, Jan. 19, 1893.*

Thus *one man* proposes to, and if occasion offers, undoubtedly will, hold the government, and the whole nation even, to a wrong course, even though a majority of both houses of Congress and of the whole nation call for the opposite. And this at the bidding of an arrogant priesthood. What, then, becomes of the principle of majority rule? It is gone. And when the *minority* rules, then what becomes of government of the people. That is gone too. This is true. Government of the people, by the people, and for the people, is gone. And in its place there stands the doctrine and the practice, of the *subjection of the people*, by the churches, and

for the churches. This demonstrates again the complete revolution that has been accomplished in this transaction.

A statement from Representative Reilly, of Pennsylvania, in the same dispatch to the *Herald*, is also worth inserting, for the reason (?) which he gives. It is as follows : —

“The present agitation, if continued, can only result in injury to the Fair. Attempts to have the law repealed only *result in stirring up animosity* toward the Fair and *creating antagonism on the part of the church people. They can do the Fair much harm* if they decide to carry out the *threats they have already made*, and I think *the friends of the Exposition* who favor Sunday opening *would act wisely in ceasing their efforts.*”

Representative Houk, however, has set forth this point most fully and most strongly, in a letter to President Higinbotham of the Columbian Exposition, printed in the *Chicago Tribune*, Feb. 5, 1893. The letter is too long to reprint here, as it fills about a column and a half of solid brevier type. He first cites an amendment which he had prepared, to open the Fair on Sunday afternoons only, with no traffic allowed within the grounds, and with provision made for “such services as shall be prescribed by the proper authorities of said Exposition ; embracing sacred music, sermons, without preference of denomination or sect, and devotional exercises in conformity with the religious ceremonies, practices, customs, and the ritual of any of the great religions prevailing among mankind ; and also embracing addresses upon natural religion and the physical sciences, as illustrating the wisdom, power, and goodness of God in the creation and upon the progress of human civilization.”

Next he declares : —

“It is my deliberate conviction that Congress was and is without any constitutional power or authority whatever to impose such a condition upon the grant of the appropriation from a religious point of view, which now seems to be the main if not the only ground insisted upon by those who so strenuously contend for its retention.”

He then says that the action of Congress imposing the Sunday-closing condition is only defensible, “if at all,” upon

the ground of the "police power of the government." But even if it were defensible at all, it could not be *defended* upon this ground after having been *enacted* upon distinctively and positively declared religious grounds and no other. "The intent of the law-maker is the law." And no act can ever be justly defended upon grounds different from those upon which it was enacted.

Next he says, it would be perfectly proper for Congress to revoke the condition and release the Exposition authorities from the obligation, if it saw fit to do so; and then he states the point which we are here considering, and which we print in full, as follows:—

"At this point I now beg to call your attention to certain existing facts. A most extensive religious agitation has been made to prevail all over the country, upon this question. Concerted action has been taken by the clergy and upon the question, as presented by them to their congregations, as to whether they were in favor of 'the desecration of the Sabbath.' An entire unanimity of sentiment has been obtained, of course, among the Protestant Christian churches at least, and other large organizations of Christian workers, against the repeal of the condition requiring the closing of the Exposition Sundays.

"From the nature, extent, and character of this opposition, based, as I think it is, upon an erroneous, though conscientious sentiment, rather than upon a deliberate and rational judgment, it occurs to me that in case it were possible to have the existing law repealed, it might after all ultimately result in serious detriment to the final success of the Exposition.

"I am deeply interested in that success, from every point of view—historical, patriotic, æsthetic, commercial, industrial, scientific, moral, and financial. I want to see it redound to the honor of our country, and of mankind at large, as it will to that of the unrivaled community and city, whose energy, intelligence, and liberality have given it the mighty and magnificent proportions it nowhere else on the face of the earth could have attained.

"I will sincerely deplore that mistaken (as I think) religious sentiment, now seemingly so prevalent, if it shall result in depriving so many thousands of people of the great benefits and elevating enjoyment that could certainly, under proper management, be made to result from opening the Exposition to the public Sundays. But if it shall at the same time have the effect of quieting the fears that seem honestly to exist; that 'our American

Sunday and rest day is in danger,' and will unite all denominations and sects and organizations in a hearty co-operation to promote the highest and best interest of the great enterprise, the deprivation, serious as it undoubtedly will be, may not be altogether without compensation.

"It is of the first importance, in my judgment, to the final success of the Exposition that there should be a harmonious co-operation on the part of all the people of the United States in its support. If the present law requiring the gates to be closed Sundays to the public, should be repealed by a vote of a majority in both the House and Senate, which does not seem to me at all probable, and the act should receive the sanction of the President, which seems to be equally improbable, it is certain that the religious element of the country, through all its organizations, would be deeply offended and would array itself in antagonism to the Fair.

"It is not a question whether such a course would be reasonable or not; and, while such action might be regarded as an exhibition of religious fanaticism, most remarkable under the circumstances, it is nevertheless true that a large number of good, conscientious, Christian people throughout the country, in their excited state of feeling upon this question, would be likely to pursue that course.

"I am in a position to have reliable information in regard to this matter, and although I firmly believe that the refusal to permit the Exposition to be opened to the public Sundays under the regulations I have suggested, will be a most deplorable mistake, I am also fully persuaded that the repeal of the existing law closing its gates would array the whole religious element of the United States (Protestant at least) against it.

"I have thought it my duty to state to you freely and frankly my views in regard to this important matter. I have been, as you know, from the inception of this great enterprise one of its most earnest friends outside of Chicago.

"The question now to be decided by the management is, whether it is advisable further to urge a doubtful contest upon a matter that is aggravating an already extensive and bitter hostility against Chicago and the Exposition, which even if ultimately successful would be as likely to be fraught with disaster as benefit to the enterprise.

"The Select Committee on the Columbian Exposition in the House, of which you are aware that I am a humble member, has now before it for consideration and determination the question, whether to report to the House an amendment to revoke the existing condition in regard to Sunday closing or by non-action permit it to remain as it is.

"With great respect I am, sir, yours truly,

"GEORGE W. HOUK,

"Member of Col. Ex. Com., H. R."

These statements from Messrs. Reilly and Houk, both members of the committee, fully confirm the statements of the Chicago *Herald* correspondent, that the church people, professedly Protestant at that, will cause such mischief, such trouble, and do such damage to the Fair and to the country, by losing their tempers and adopting bulldozing methods, if they do not have their own way, as would not be thought of by people who do not belong to the churches. And therefore for the success of the Fair and the good of the country, the government itself must be surrendered to, and run in the interests and at the bidding of, this most dangerous element in the nation !

This is precisely the position that has been taken also by United States District Judge E. S. Hammond. In a decision rendered Aug. 1, 1891, the Circuit Court of the United States for the western district of Tennessee distinctly established the doctrine of persecution in behalf of the observers of Sunday, in the following words : —

“ By a sort of factitious advantage, the observers of Sunday have secured the aid of the civil law and adhere to that advantage with great tenacity, in spite of the clamor for religious freedom and the progress that has been made in the absolute separation of Church and State. . . . And the efforts to extirpate the advantage above mentioned by judicial decision in favor of a civil right to disregard the change, seem to me quite useless. . . .

“ If the human impulse to rest on as many days as one can have for rest from toil, is not adequate, as it usually is, to secure abstention from vocations on Sunday, one may, and many thousands do, work on that day without complaint from any source ; but if one ostentatiously labors for the purpose of emphasizing his distaste for, or his disbelief in, the custom, *he may be made to suffer* for his defiance. BY PERSECUTIONS, if you call them so, *on the part of the great majority*, who will compel him to rest when they rest.”

The Court was composed of Judge Howell E. Jackson, since appointed to the Supreme Court of the United States, and Judge E. S. Hammond. The decision was written by Judge Hammond. In the Memphis *Appeal-Avalanche*, Aug. 30, 1891, there appeared a four-column article, dated August

12, by Judge Hammond, under the heading of "The Sunday Habit," which is little if anything else than a defense of the decision on this subject which had been rendered Aug. 1. In this article he confessed that "the logic of this [his] position may lead to a union of Church and State undoubtedly ;" but that the support of Sunday by the civil power, by persecutions at the dictation of the churches, "is a necessity of statesmanship," upon "the policy of securing the public peace." The danger to the public peace if Sunday laws were disregarded, or attacked by a proposal to abolish them, is described in the following words : —

"We have lived so free of it in modern days that we forget the force of religious fanaticism, and he who supposes that its fury cannot be again aroused may be mistaken. . . .

"Christians would become alarmed, and they might substitute for the stars and other symbols of civil freedom upon the banners of their armed hosts, the symbol of the cross of Christ, and fight for their religion at the expense of their civil government. They have done this in times that are passed, and they could do it again. And he is not a wise statesman who overlooks a possibility like this and endangers the public peace. . . .

"*The civilian as contradistinguished from the churchman, though united in the same person, may find in the principle of preserving the public order a satisfactory warrant for yielding to religious prejudice and fanaticism the support of those laws, when the demand for such a support may become a force that would disturb the public order. It may be a constantly diminishing force, but if it be yet strong enough to create disturbance, statesmanship takes account of it as a factor in the problem.*"

These are the deliberate statements of representative men and officials, in official place, men who are in position not only to know, but in which they were obliged to consider the question in all its bearings. And when, having so considered the question, they set forth this as their deliberate conclusion, then nothing more is needed, and nothing more could be asked, to demonstrate that the church element that is managing the Sunday cause *is the most dangerous element that there is in the United States.*

That the government of the United States and the people of the whole nation should be deliberately surrendered into the power of this most dangerous and destructive element, is frightful.

That this pandering to this most dangerous and destructive element, and this deliberate surrender of the government and the nation to it, should be advertised and exalted as "wise statesmanship" by those who have done it, is terrible. It is not statesmanship of any kind, either wise or otherwise. It is shameful cowardice. It is a base betrayal of the supreme public trust — the rights of all the people.

But that this most dangerous and destructive element should be advertised and exalted as Christianity by those who have surrendered to it as well as by those who manifest it and impose it on the government, *is abominable*. It is not Christianity in any sense. It is devilry.

Yet in the face of this evidence and these open statements of these officials, that this church element that manages the Sunday cause is the most dangerous element in the nation,—so dangerous in fact, that the government and the whole nation must be surrendered to it bodily, in order to preserve the public peace, and even the government itself,—in the face of all this, these same leaders and managers of the Sunday-law cause evidently take great pride in advertising themselves as "the best people of the land," and "the law-abiding people of the country"! This is evident from the fact that they take occasion to announce themselves as such by preamble, and resolution, and speech, in their mass-meetings. They never lose any such opportunity to exalt themselves as "the best people," and "the law-abiding portion" of the community or the whole country even.

The fact is, however, that this claim is as much of a fraud as is all the rest of their claims. It is of the same piece as all the rest of their boasts. It is absolutely fraudulent. The fact is, that these very men are the least law-abid-

ing people in the United States. They have no respect for any law but such as their own arbitrary will demands and approves. Without the slightest hesitation, they disregard and override the supreme law of the government of the United States and of the government of the universe.

Proof.—The supreme law of the government of the United States, the Constitution, positively prohibits any legislation on the subject of religion. Yet, in spite of this, in utter disregard of the supreme law of the land, these men, by threats of force—threats of the loss of votes, the only force at their command—required Congress to legislate upon a religious subject, to decide a religious question, and to take their side in a great religious controversy. And in this they have plainly overridden the Constitution, and violated the supreme law of the land. *And they know it.*

Why, their action is as much worse than that of the average law-breaker, as the supreme law of the land is greater and more important than local statutes. The average law-breaker damages the *individual*; these supreme law-breakers damage *the whole nation*. The average law-breaker invades the rights *of the individual*; these supreme law-breakers have invaded and even swept away the rights of *all the people*. The average law-breaker disregards social order only in the locality where he is; while these supreme law-breakers strike at the very existence of social order by breaking down the chief governmental safeguard. For the average law-breaker, there is always a ready remedy in the regular forms of governmental order; but for these supreme law-breakers who have broken down the established safeguards of governmental order itself, where is the remedy?

These facts demonstrate that instead of their being truly the law-abiding portion of the people, these men are the chiefest law-breakers in the land—the most lawless of all the nation. Nor is this at all to be wondered at. For in order to accomplish this their bad purpose, they “gladly joined

hands " and hearts with the papacy — that power which the Lord designates as "the lawless one" and as the very "mystery of lawlessness" itself. 2 Thess. 2 : 3, 7. (Revised Version). For eight years continuously, the National Reformers advertised themselves as ready "to make repeated advances, and gladly to accept co-operation in any form in which they [the Roman Church] may be willing to exhibit it." After eight years of such endeavor, their wishes were rewarded by the following pronunciamento of the Catholic Lay Congress, in Baltimore, Nov. 12, 1889, which, as it passed the inspection of the hierarchy, before it was presented to the public, is the official response of the papacy in the United States, to the National Reform overtures : —

"There are many Christian issues to which Catholics could come together with non-Catholics *and shape civil legislation* for the public weal. In spite of rebuff and injustice, and overlooking zealotry, we should seek an alliance with non-Catholics for proper Sunday observance. Without going over to the Judaic Sabbath, we can bring the masses over to the moderation of the Christian Sunday."

And this, as the American Sabbath Union branch of the National Reform combination announced at the time, was done "*after correspondence and conference with the American Sabbath Union.*" The whole statement is in these words : —

"The National Lay Congress of Roman Catholics, after correspondence and conference with the American Sabbath Union, passed its famous resolution in favor of co-operation with Protestants in Sabbath reform."

Then in the same connection, this was announced as "a proposal of courtship." Following this, Archbishop Ireland, in a public meeting in New York City, in May, 1891, thanked God that "Protestants and Catholics" "stand together in demanding the faithful observance of Sunday." And as the "advances," the "proposal," and the "standing together" were all to secure "civil legislation" for the faithful observance of Sunday, the longed-for union was finally accomplished

when they succeeded in dragging the Fifty-second Congress into the now famous and no less infamous Sunday legislation.

Nor is it to be considered at all strange that they should show themselves so lawless as to disregard and override the supreme law of the nation, and join themselves to the very "mystery of lawlessness" to accomplish this lawless purpose. For, for all these years they have openly, both in actions and words, disregarded and overridden the supreme law of the universe,—the law of God which he proclaimed with a voice that shook the earth, and wrote with his own finger of fire on the tables of stone,—and they have followed the preaching, the precedent, and the authority of the mystery of lawlessness in the doing of it.

The Sabbath of the Lord, the seventh day, which he himself has named and appointed, which he declared with his own voice from heaven, which is his own, upon which he placed his blessing, which he made holy, and which he sanctified—*this*, the Sabbath of the Lord, is the sign of what Jesus Christ is to those who believe in him. The observance of it by faith—the true observance of it—brings into the life of the believer in Jesus, as nothing else can, the living presence and power of Jesus Christ. This is true, and every man may know it by faith in Jesus.

All these years they and the people have been told in the words of God that "the seventh day is the Sabbath of the Lord." But instead of believing it, or allowing the people to believe it, they have disregarded it and declared that it is not so. They have taught the people that it is not so. They have put no difference between the holy and the profane (Eze. 23 : 36), by telling the people that it makes no difference what day they keep. Thus they disregard the law of the living God, and teach the people to disregard it. Then after teaching the people to disregard the plain word of the law of God as to the observance of the day which he

has commanded, and telling all, in their own words that there is no command of God for the observance of Sunday, they join heart and hand with the mystery of lawlessness which has established Sunday instead of the Sabbath of the Lord, and set its own word and heathen customs above the law of God.

Having thus forsaken the Lord, and all true allegiance to his law, and gone over bodily and heartily and "gladly" to the mystery of lawlessness — having gone to such lengths as this in despising the law of the living God, it is not at all to be wondered at that they would despise the supreme law of the government of the United States, nor that they should require Congress, in violation of its solemn oath, to join in their high-handed enterprise and establish their lawless purpose, by the surrender of the power of the national government into their hands to be used at their lawless will, to enforce upon all, their lawless decrees.

And *these* are they who *pose* before the American people as "the best people," and "the law-abiding people" of the land! Such self-trumpeted glory is completely becoming. Such modesty fits them exactly.

We stated a moment ago, that, for the average law-breaker, there is always a ready remedy in the regular forms of governmental order; but for these supreme law-breakers who have broken down the established safeguards of governmental order itself, where is the remedy?

Ah! there is a remedy for this too. *It is in the hands of God, the Author of governmental order.*

Against all their attempts to do this great evil, we ever appealed to the Constitution, the grand charter and safeguard of the rights of mankind — the embodiment of the true principles of governmental order. And now that they have done the evil, and in the doing of it have overridden the Constitution, broken down this safeguard of the rights of mankind, and smitten the very citadel of governmental order

— now we appeal to the Author of governmental order itself. And our appeal is heard. We wait in perfect confidence. The just judgment will be rendered in due time.

WHAT WILL BE THE RESULTS?

It is worth serious inquiry as to what will be the effect upon the churches, of their taking the government of the United States into their hands, as they have done.

When we find what will be the effect upon the churches, it can easily be seen what the effect will be upon the State. And seeing the effect on both Church and State, it will be easy to know what the effect will be upon society as a whole.

Nor is this at all difficult. The results of this procedure have already begun to appear in such measure as to present a perfectly safe criterion. The outcome may be known without any theorizing at all. All that is necessary is candidly to consider *facts* as they stand before the people at the present moment.

The manner in which the churches succeeded in getting the government into their hands—this in itself contains a volume of instruction as to what the effect will be upon those churches. The resolution that was sent up to Congress from the “evangelical” churches in all parts of the country, after prescribing what Congress should do with respect to the World’s Fair, runs as follows:—

“*Resolved*, That we do hereby pledge ourselves and each other, that we will from this time henceforth refuse to vote for, or support for any office or position of trust, any member of Congress, either senator or representative, who shall vote for any further aid of any kind for the World’s Fair, except on conditions named in these resolutions.”

As all now know these threats succeeded, and both Senate and House yielded to this demand rather than to

risk the threatened loss of votes and jeopardize their "coming back again." It is likewise known that those who thus secured this legislation have repeatedly announced since, that this demonstrates that they can have anything they want, if they will only stand together in demanding it, and that they do intend to make such demands for further favors and further subjection of the government.

Now, in view of these facts, here are some questions worthy of the candid attention of every honest church member in the land. If those who are already in Congress will thus play into the hands of the churches in order to "come back" there, then will not those who want to go there play likewise into the hands of the churches in order to get there? When, from this universal advertising, it is understood that the churches hold within their gift the offices and places of trust of the nation, then will not these same churches become the chiefest objects of the courtship and solicitation of the office-seekers of the land, and especially of the most unprincipled ones? Everybody knows that the only fair answer that can be made to these questions is, *Yes, they will.*

Then, in order to make their courtship and solicitation for office most effectual, these men will become church members themselves. And having joined the church for political purposes, they will use their membership for political purposes. And, so far as they are concerned, the churches will be but so many political clubs and coteries to be "worked" for all that can be made out of them. This is not theory, nor is it far-fetched; it is the plainly stated calculation of the leaders of the Sunday-law movement. For years it has been one of the standing principles of the National Woman's Christian Temperance Union that "now, when it is a question of preserving the Sabbath itself, and guarding the homes which are the sanctuaries of Christ's gospel, we women believe that *no day is too good*, no place

too consecrated, *for the declaration of principles and the determining of votes.*"¹ And in an editorial notice of a Sunday-law meeting in New York city, the *Examiner* (Baptist) said : —

"Congress may change its mind ; the present is no time for jubilation ; but is (and we beg pardon for the phrase) a time for wire-pulling and hard fighting."

Now, when it is so openly and so brazenly announced by those who are occupying the leading positions in the churches, that their "holy day" and their sacred places shall be turned into political hustings, and that they will devote themselves to "wire-pulling and hard fighting"—when these take the lead in this, is it not inevitable that the office-seekers who would court their influence and votes will do the same thing? In fact, what else are these declarations of theirs but an open bid for such procedure on the part of just such classes as those?

Nor is political favor the only bid which these same churches hold out for the purpose of securing Sunday observance. The churches have financial as well as political gain at their disposal. In congratulating himself and his followers upon the success of their threatening efforts upon Congress, the President of the American Sabbath Union exclaimed : —

"The form of the law is happy. It gives a premium of \$2,500,000 on doing right. It proves in a concrete way that 'godliness hath great gain.'"

As these churches have it in their power thus to put a money premium upon doing the will of the Church, it is self-evident that in the nature of things they will speedily secure large accessions to their numbers in such "right" doing. When the Church is enabled thus to prove so readily in a concrete way, to her own satisfaction, that "godliness hath great gain," it is inevitable that there will be speedily added

¹ President Frances E. Willard's annual address, of 1887, Nashville National Convention.

to her numbers those who will be able to prove just as readily to *their* own satisfaction that "gain is godliness." And the deduction of these latter will be just as true and as honest as is this boast that the Church has already made.

Neither have they stopped with this attempt upon Congress and the World's Fair Directory. They are applying the principle in general practice. Witness the financial bargain — to give their moral and financial support — which the representatives of the churches of Englewood, Chicago, made with the Marlowe Theater to secure Sunday observance by the theater. The following from the Chicago *Daily News* Sept. 2, 1892 gives the facts in this case: —

"The Englewood 'church-and-theater' fight is for the moment, at least, over.

"A settlement has been arrived at between the contending parties, which is presumably satisfactory to both, though the terms are a little peculiar.

"The articles of agreement were drawn up at a joint meeting of the theater people and two of the church party, — Alderman Noble and Mr. J. Badenoch, Jr. The discussion commenced last night, and continued to a late hour, and only after prolonged inquiry this morning, was it possible to discover the terms of the settlement.

"Attorney J. McK. Cleland, president of the Englewood Young Men's Christian Association, who has hitherto been the fountain-head of information regarding the struggle, was at a loss how to reply when asked what settlement had been arrived at. 'You would better ask Alderman Noble,' he said, 'and talk with Mr. Fenn.'

"Alderman Noble could not be found, but Mr. Fenn was in his real-estate office at 79 Clark street.

"'I was not one of the sub-committee,' he said, 'and am not at liberty to tell you the facts about the agreement. Indeed, there are certain parts which are confidential between the committee and Mr. Miller of the theater. I may say, however, that there will be no evening performance after next Sunday.'

"'Are you satisfied with the settlement?'

"'Well, we have got all we wanted.'

"'At what cost?'

"'At no cost whatever.'

"'Then you should be perfectly satisfied.'

“‘Yes,’ said Mr. Fenn, in a rather dubious tone.

“A visit to Mr. Maher, attorney for the theater proprietor, solved the mystery of the reticence displayed by the president of the Y. M. C. A.

“‘What are the terms, Mr. Maher?’ the *Daily News* man asked, ‘and why this mystery?’

“The attorney smiled broadly. ‘There are just two points,’ he said. ‘In the first place there are to be no more Sunday performances after September 4; and secondly, the church people, excepting those who have a fixed and unalterable aversion to all theater-going, are to give their moral and financial support to the Marlowe theater.’

“‘Will they take stock in the theater?’

“‘No, sir; we still propose to own the theater. They will limit their financial support to occupying parquet seats and boxes.’”

Witness also the boycotting combination which the churches of the West Side, in the same city, entered into to secure Sunday observance by the dealers. The following is their preamble and resolution:—

“WHEREAS, It is contrary to the laws of Illinois and against the expressed wish of the people of Chicago, *propagated through the churches* and labor organizations through the agency of the daily press, for the clothing stores to open their doors on the Sabbath-day; and—

“WHEREAS, The citizens of the West Side, in mass-meeting assembled, on this Sunday, September 25, do earnestly protest against the continuance of this evil; therefore, be it—

“*Resolved*, That it be the sense of this meeting that we, the purchasing public of this, the West Side, do agree not to purchase any goods sold by any store that may keep open its doors on the Sabbath, and do further agree to exert our influence in every way practicable for the closing of stores on the Sabbath.”

This latter effort speedily bore living fruit, which is significant of the whole line of things which we are here pointing out.

This boycotting resolution to deal with nobody that opened on Sunday, was passed September 25. On October 11, another meeting of the same kind was held in another part of the city. The announcement and program were printed on a large leaflet which was about half filled with advertisements, among which we find one put up in this style:—

MILLINERY
FURNITURE
CARPETS
TRUNKS
BAGS
ETC., ETC.

A _____ & B _____
CLOTHING, DRY GOODS, HATS, CAPS, BOOTS, SHOES

Ladies and Gents' Furnishing Goods

4_ to 4_ M_____ Avenue.

We believe in the closing of shops and stores on Sunday, and have always practiced it.

Another one runs thus: —

PIONEER ADVOCATES OF SUNDAY CLOSING

Z _____ & CO.,

CLOTHIERS, HATTERS, AND FURNISHERS

Northwest Corner _____ and _____ Streets

NOT OPEN ON SUNDAY

These two advertisements are the veering of the weather-vane which show how that desire for the patronage of the Church will inspire and intensify the zeal for Sunday observance and its strict enforcement upon all.

More than this: we know of an instance wherein, in November, 1892, a money bribe was actually offered by the churches in a certain place, and the proposition was conveyed through a preacher, to secure the closing of a certain institution on Sunday.¹ And in perfect consonance with this, if not actually suggestive of it, the *Union Signal*, of Oct. 20, 1892, published editorially, from Joseph Cook, the statement that "there is more wealth behind the churches and the respectable portion of society than behind all the opponents" of Sunday closing. The statement is worth reprinting in full, as it is made in the very connection in which we have used it. It is as follows: —

"In view of the vigor with which the right of petition is exercised by the opponents of Sunday closing [of the World's Fair], we believe that

¹ For the reason that legal proceedings are pending in connection with this fact, we are not yet at liberty to give particulars as to place and persons.

it should continue to be exercised vigorously by the friends of Sunday observance, especially if there should prove to be the slightest danger of the reversal of the action of Congress. We urge alertness at all points of the compass, for our opponents are not likely to sleep, and portions of the press of the country favor them from obvious mercenary motives. So does the immense wealth behind the saloon. *But there is more wealth behind the churches and the respectable portion of society than behind all the opponents.* The forces of the churches are in this case substantially united, and are already triumphant in the preliminary contest."

Yet more than this: they are actually coddling the saloons to secure Sunday observance by them. The *Michigan Sabbath Watchman* (local organ of the American Sabbath Union) for October, 1892, reprinted an article from the *American Sabbath Union* (the national organ of the association of that name), entitled, "The Rochester Experiment," in which the Sunday observing saloon is flatly declared to be "reputable" and even of "good repute." It seems to be a report in the paper, from Rochester, New York, giving a flattering account of the progress of Sunday observance by the saloons. The article is long, and we can present only a few extracts. Here is one: —

"If liquor sellers can make as much, or nearly as much, by working six days as they can in seven, they will be foolish to deny themselves that extra day of rest."

And here is another: —

"A more important and controlling consideration is that the liquor closing movement is an effort to place this business under the protection of law instead of making it contraband, as the opposite policy has done. It is incredible that reputable men, as the large proportion of liquor sellers are, shall prefer voluntarily to place themselves under the ban of legal as well as popular disapproval."

And here is yet another, and stronger, too: —

"The effect of Sunday closing has been to sharply discriminate the reputable from the disreputable saloon, and certainly to the advantage of the former. How many of the reputable liquor sellers would wish to weaken *the good repute* of their establishments for the paltry patronage that disregard of their license obligations might secure?"

True, he states that "there is considerably more liquor sold Saturday night and used at home on Sunday than before the saloons were closed on that day." Nevertheless he declares, "It is better every way for these customers to get their supplies the day before, and keep their business closed."

And all these things are being done by the leaders and managers of the churches in the United States—and professed Protestant churches at that. How much worse could they do if they made no pretensions to religion at all? But when these things are all being done, not only by professed religionists, but by the very ones who set themselves forth as the representatives of Christianity itself, how infinitely worse it is than if done by persons making no pretensions to religion!

This is where the opposers of Sunday laws and Sunday observance are at a disadvantage. These Sunday-law workers can, and do, and will, employ measures and resort to means that no man of any principle would ever think of.¹ They will literally stop at nothing. With them the end justifies any and every means. The observance of Sunday, however secured, sanctifies every possible means that can be employed to secure it. This is evident from the facts which we have here set down—and that they *are* facts is patent to the whole people of the United States.

How exactly do these declarations and actions of these churches fulfill the prophecy that was spoken concerning them long ago—that they, as fallen Babylon, would "become the hold of every foul spirit, and a cage of every unclean and hateful bird!" Rev. 18:2. That hold is now prepared. That cage is set. Its doors are open. And she is to-day holding forth the luring baits that will inevitably draw into her, every foul spirit and every unclean and hateful bird.

¹ I told this to a theater full of people, at the Marlowe Theater, Englewood, Chicago, in August, 1892. And before two weeks were past, the managers of that theater saw it fulfilled.

And how much longer can the Christians stay in these churches and under these leaders and managers, without being partakers of their sins? *There are Christians in these churches* who are sighing and crying because of the evil and the abominations that are being wrought in them and by the managers of them. And to these now God sends the call, "Come out of her, my people, that ye be not partakers of her sins, and that ye receive not of her plagues." Rev. 18:4. There is but another step to take before her sins shall reach unto heaven, and God shall remember her iniquities. Rev. 18:2, 5.

There is another scripture that describes the whole situation and system of things as it exists to-day. It is 2 Tim. 3:1-5, and runs as follows:—

"This know also, that in the last days perilous times shall come. For men shall be lovers of their own selves, covetous, boasters, proud, blasphemers, disobedient to parents, unthankful, unholy, without natural affection, truce-breakers, false accusers, incontinent, fierce, despisers of those that are good, traitors, heady, highminded, lovers of pleasures more than lovers of God; having a form of godliness, but denying the power thereof; from such turn away."

Think of it! a list of nineteen such dark iniquities as these, and all carried on by people having a form of godliness, a people making pretensions to Christianity! And, horrible to tell, they "shall wax worse and worse deceiving and being deceived." Verse 13. And the things which are to accomplish it are being done before the eyes of the people to-day. Is it not high time that whosoever would fear God should "from such turn away"? May heaven help the people to see.

In the Scriptures the Christian's relationship to Christ is described under the symbol of the marriage tie: "Ye also are become dead to the law by the body of Christ; that ye should be married to another, even to him who is raised from the dead, that we should bring forth fruit unto God."

Rom. 7 : 4. "I have espoused you to one husband." 2 Cor. 11 : 2. And the individual Christian is in this represented as having been espoused "as a chaste virgin to Christ."

Such individuals gathered into fellowship form the Church of Christ. And the relationship to Christ of such collection of individuals is also described under the symbol of the marriage tie : "Husbands, love your wives, even as Christ also loved the Church, and gave himself for it. . . . So ought men to love their wives as their own bodies. He that loveth his wife loveth himself. For no man ever yet hated his own flesh ; but nourisheth and cherisheth it, even as the Lord the Church. . . . For this cause shall a man leave his father and mother, and shall be joined unto his wife, and they two shall be one flesh. This is a great mystery : *but I speak concerning Christ and the Church.*" Eph. 5 : 25-32.

In accordance with this idea the Church of Christ is represented in the Scriptures as the purest and fairest of women, leaning upon the arm of her beloved ; drawn to him with the drawings of his love ; her only thought being of her beloved, to her the chiefest among ten thousand and altogether lovely, whose banner over her is love, and who would present her to himself "a glorious church, not having spot, or wrinkle, or any such thing ; but that it should be holy and without blemish." Such is the Church to Christ ; such is Christ to his Church ; and such is the relationship between Christ and his Church.

To such a church as this Christ committed his gospel to be by her made known to every creature. It is only such a church as this that can make known the gospel of Christ. That gospel "is the power of God unto salvation to every one that believeth." Rom. 1 : 16. No one can make known that power who does not know that power for himself and in himself. And the Church can make known the power of God only by knowing that power in and for herself. And

that power being known only by faith, in the nature of things it is only by abiding faithful to her Lord that the Church could fulfill the work of the gospel committed to her trust.

Again : The gospel is Christ in men the hope of glory. Col. 1 : 27. This is what the Church of Christ is to make known to men. No one can make known Christ in men, who for himself does not know Christ in himself. It pleased God "to reveal his Son *in me* that I might preach *him*." Gal. 1 : 16. But Christ dwells in men only by faith. "That Christ may dwell in your hearts by faith." Eph. 3 : 17. It is evident, therefore, that the only way in which the Church can make known Christ in men the hope of glory, is to have, and to know, Christ revealed in herself. And as this is only known by faith, it is evident that it is only by abiding faithful to Christ that she can know Christ in herself or make him known in men.

Once more : In the gospel, the righteousness of God is revealed ; and the righteousness of God only. And it is the righteousness of God only which the Church of Christ is to know, and which she is to make known to all the world. This is the ministry of the gospel which is committed to the Church of Christ. This righteousness is known only by faith, and revealed only to faith. "Therein is the righteousness of God revealed from faith to faith." "Even the righteousness of God which is by faith of Jesus Christ unto all and upon all them that believe." Rom. 1 : 17, and 3 : 22. As, therefore, this righteousness is known only by faith, and is revealed only to faith, it is plain that it is only by abiding steadfast in faithfulness to Christ that the Church can know or make known the righteousness of God which is revealed in the gospel.

The sum of all these counts, and of many more that might be given, is simply to demonstrate over and over that it is only by abiding wholly in Christ, by trusting in him entirely,

by depending upon him completely, by perfect faithfulness to him, that the Church can be what she must be in order to do what she is established to do.

Such was the Church of Christ in the beginning. Such is always the Church of Christ indeed. But such neither is nor has been the *professed* Church of Christ. For there has been an apostasy from Christ and from the true Church of Christ. In the apostles' days the warning was given, "Of your own selves shall men arise, speaking perverse things, to draw away disciples after them." Acts 20:30. And there shall come "a falling away first, and that man of sin be revealed, the son of perdition, who opposeth and exalteth himself above all that is called God, or that is worshiped; so that he as God sitteth in the temple of God, showing himself that he is God. . . . For the mystery of iniquity doth already work." 2 Thess. 2:3-7.

The Lord exalted his Church, and clothed her with the beautiful garments of salvation and righteousness, and endued her with the power of God and godliness, before the eyes of all the nations. He made her exceeding beautiful, and she prospered, and her renown went forth to all the world for her beauty; for it was perfect through *His* comeliness which *He* had put upon her. But not satisfied with the exaltation which the Lord gave, which could come and remain only through her own humility, a portion of the Church grew haughty and exalted *herself*. Not content with the beauty of the Lord, which he had put upon her, she prided *herself* upon her own beauty; and instead of trusting in him for her beauty, she trusted in herself. Not content that God alone should be glorified in her, she glorified *herself*, and lived deliciously. Then, trusting in herself, priding herself upon her own beauty, magnifying her own merit, and satisfied with her own sufficiency,—this in itself was to put herself in the place of God. Then it was natural enough that she should seek to draw disciples to herself rather than to the

Lord. Not only this, but having exalted herself, and magnified herself, and still trusting in herself, it was impossible for her to draw disciples to anybody but herself. Thus came the apostasy. And thus, instead of remaining the Church of Christ in truth, manifesting to the world the mystery of God and of godliness, she became, though still professedly the Church of Christ, only the manifestation to the world of the mystery of *self* and of selfishness, which is the very mystery of iniquity.

Pre-eminent in both phases of this career was the Church at Rome. She was pre-eminent in faith, insomuch that her faith was "spoken of throughout the whole world." Rom. 1 : 8. She was also pre-eminent in apostasy, insomuch that this likewise has been spoken of throughout the whole world, and for nearly eighteen hundred years. As she had been so highly exalted and honored *by the Lord*, correspondingly low did she fall, and correspondingly dishonored did she become, when she exalted *herself*. As high as was her privilege while abiding in the faith, so correspondingly low was her degradation in her apostasy. As she had been perfect in beauty through the comeliness which the Lord had put upon her, so she became frightful in the ugliness of her own uncómelý self-conscious pride of her own accomplishments, which were only evil.

POWER SHE MUST HAVE.

As she was now trusting in her own merit and her own sufficiency, and seeking to draw disciples to herself, she was left to her own inventions to attract them. She accommodated herself to the ways of the sun-worshiping heathen ; she perverted the right way of the Lord, and spake perverse things. She decked herself in gold and jewels and costly array. By such means her adherents multiplied greatly. But lo ! just here she encountered a serious difficulty : she found it impossible of herself to hold her converts in subjection to her bidding.

The chiefest trouble in this respect was in securing conformity to her will in the matter of the observance of Sunday as a holy day, which, instead of the Sabbath of the Lord, the sign of his power and authority, she had set up as the sign of her authority to command the obedience of men. To accomplish this, she realized the want of a power beyond herself, a power other than her own. The power of God was not open to her in this ; nor, in fact, in anything else that she commanded, for none of these things had the Lord required. It is the Church's duty to obey God, not to command men.

True, the power of God was still for her and free to her, but the way to it lay only through sincere repentance, through humbling herself, confessing her sins, and separating from her heathen customs, and from all iniquity. This she would not do. But power she must have, and power she would have, even though it were illegitimate. Having forsaken the heavenly power, she now sought for earthly power. Having forsaken the arm of the Lord, she sought the arm of man. Having disconnected herself from the kingdom of heaven, she would now connect herself with kingdoms of earth. Still trusting in her own beauty, and her own bedecking of silk and gold and precious stones and pearls, and holding in her hands the proffer of rich gifts to any lover that would receive her pernicious advances and form an alliance with her, she finally succeeded, through Constantine, in gaining imperial favor and forming an adulterous connection with an earthly lord. The now unholy Church formed an unholy connection with the unholy State. And the very first fruit of it was an imperial law enforcing her will in Sunday observance ; the next was the definite placing of the imperial authority at her disposal, with which to compel conformity, and to punish obstinate heretics.

Thus did she who had been espoused as a chaste virgin to Christ ; she who had been joined in the bonds of pure and holy marriage to him who is perfect in power, in love,

and purity ; she who had known the blissful delights of his love,—thus did she violate her virgin vows, break her marriage ties, and became a bloody, murderous harlot, and the very symbol of confusion. Accordingly, the next view that is given of her is this: “I saw a woman sit upon a scarlet colored beast, full of names of blasphemy, having seven heads and ten horns. And the woman was arrayed in purple and scarlet color, and decked with gold and precious stones and pearls, having a golden cup in her hand full of abominations and filthiness of her fornication: and upon her forehead was a name written, MYSTERY, BABYLON THE GREAT, THE MOTHER OF HARLOTS AND ABOMINATIONS OF THE EARTH. And I saw the woman drunken with the blood of the saints and with the blood of the martyrs of Jesus.” Rev. 17: 3-6.

And though in the course of time she had scattered her pernicious ways to all the heathen, and had indulged her lascivious propensities with every kingdom on earth, even yet the Lord would have healed Babylon. In the Reformation he sent a balm for her, if so be that she might be healed. But she would not. Therefore such as loved the Lord were obliged to forsake her.

But lo ! these that had forsaken her to join themselves to the Lord, instead of remaining faithful to him, followed her evil example, and forsook him and joined themselves also to the kingdoms of the earth in illicit connection. Thus it was with every professed Protestant church, except the Baptist, that ever had a chance, from the Reformation to the founding of the national government of the United States. This government, by utterly prohibiting to itself any connection with the Church or religion, intended to shut off all opportunity for any church to follow here the Romish-Babylonish example of joining itself to the national government, though even then and ever since, it was sorely against the will of some professed Protestant churches.

Yet in spite of this national principle of government, and in the face of the warnings of the history of eighteen hundred years, the churches of the United States for the last fifty years have been gradually drifting into the course of the original apostasy, and in the last fifteen years their progress in this way has been most rapid, until its culmination in 1892. We might here give representative facts with reference to the festivals, and fairs, and ring-cakes, and grab-bags, and fish-ponds, and kissing-bees, and sleeping beauties, and raffles, and selling young ladies by auction, etc., etc., all carried on in the church and for the church, showing the progress of this apostasy all the way ; but what is the use of it when the final step has now been taken before the eyes of all the world ?

Everybody knows that for several years the professed Protestant churches of the United States have boasted of the greatness of their numbers, but yet have openly and repeatedly — by pulpit, platform, and press — confessed their lack of power to maintain the observance of Sunday as the “Christian Sabbath” by their own adherents. But what have they done to recover this loss of power ? Did they resolve to insist upon strict conformity to discipline on the part of these disloyal adherents ? — No, no ; instead of this, one prominent preacher lately expressed the sentiment that has pervaded all upon this subject, when he declared that he himself would go out of the church, as he stated it, “body, boots, and breeches,” before he would discipline a single one of them.

Did they resolve to preach the gospel fervently in the demonstration of the Spirit and power of God ? — No ; for in this they experienced the same difficulty that was met in the original apostasy — they were compelled to confess that there is no “thus saith the Lord” for Sunday observance. There was therefore no authority of God to which they could appeal to arouse the conscience, no word of the Lord

through which they could invoke the agency of the divine Spirit to touch the heart.

Did they then act upon this confession of no "thus saith the Lord" for the observance of Sunday as the Sabbath, and turn about and seek to conform their ways to what the Lord has indeed spoken with his own voice, and written with his own finger with respect to the day which shall be observed?—No; they did not do this, either. What, then, did they do?

THEY DID THIS.

"*Resolved*, That we give our votes and support to those candidates or political officers who will pledge themselves to vote for the enactment and enforcing of statutes in favor of the civil Sabbath."¹

For several years they offered themselves upon this bid to all takers. But until 1892, no opportunity was presented upon which they might act positively and decidedly upon the resolution which they had formed. The World's Fair enterprise, however, when it was taken up by Congress, presented the very chance for which they had been looking. Consequently, at this they acted together as one body in demanding the nation's recognition and support of Sunday sacredness, by the threatening resolution printed on page 65.

God has said that he "hath made of one blood all nations of men, for to dwell on all the face of the earth, and hath determined the times before appointed, and the bounds of their habitation; *that they should seek the Lord*, if haply they might feel after him, and find him." Acts 17: 26, 27. Here are these churches which find themselves sorely in need of a power beyond themselves, and other than their own. But instead of meeting the Lord's mind, and seeking him, and so setting a bright example to all men, they turn their backs upon the Lord, and seek *the government of the United States*, and feel after it,—and *they found it, too*.

¹ Sunday-law Convention, Elgin, Ill., Nov. 8, 1887.

The Church of Christ is the Lord's appointed agency through which he would call men unto himself that they may find in him deliverance from this present evil world. Now here are these *professed* churches of Christ who find themselves overloaded with worldly influences and worldly practices. Instead of seeking *the Lord* for deliverance from this burden of evil, they seek, by the chiefest of worldly means, a closer alliance with the highest source of worldly influences and worldly practices! For deliverance from an evil which they know, they seek the very source of that evil!! For deliverance from the power of the world, they enter by force into the possession of the greatest worldly power!!! Was there ever a more complete apostasy than this? Could the example of the original apostate church be more exactly followed than it has been in this procedure? And that which marks how complete the apostasy is, is that in this even the Baptist Church is in large measure included. Even she who had always kept herself clear of such an illicit connection has been carried away in this evil tide of apostasy; and all together have joined hands with the original apostate church to make successful their determination to secure the power of earthly government.

Thus again, these who had been espoused to Christ, who had been joined to him in the bonds of heavenly alliance, have violated their vows and broken their marriage bonds to him who is perfect in power, in love, and purity. Once more these have forsaken the heavenly power and sought for earthly power. They have forsaken the arm of the Lord and have put their confidence in the arm of flesh. They have forsaken the heavenly Husband and have formed an adulterous connection with an earthly lord. Once more the unholy Church has formed an unholy connection with the unholy State. And once more the very first fruit of it is a national law expressive of her will in the matter of Sunday observance; and the rest of the baleful fruit of such illicit connection will inevitably

follow. Is it at all strange, therefore, that the following passage should have been printed, even some time ago, by a leading divine in one of the leading "Protestant" papers of the country? Discussing the question of the reunion of Christendom, he argued for it against certain ones, thus:—

"You would exclude the Roman Catholic Church, *the mother of us all*, the church of scholars and saints, such as Augustine, and Aquinas, and Bernard, and Fenelon: the Church of all races, ranks, and classes, which already gives signs of becoming American as well as Roman. . . . You would exclude also the Protestant Episcopal Church, the beautiful *daughters* of a *beautiful mother*."

That was printed Feb. 9, 1888, in the *Evangelist*, New York City, one of the two leading Presbyterian papers of the country. And from that time to this, never have we seen or heard a single word of protest or dissent from any of the professed evangelical Protestant churches of the country. This states their relationship to "Babylon, the mother of harlots" as that of daughters; and even beautiful daughters; after the "beautiful mother." Their silence is consent that the relationship is correctly stated. And their *action* in forsaking their rightful Lord and entering into this illicit union with another is positive demonstration that the relationship is herein correctly given. For just as certainly as the original apostasy created "Babylon the mother of harlots and abominations of the earth," just so certainly this apostasy in our day and in our country has created the harlot daughters of "Babylon the mother." She is the mother only of "harlots and abominations." By positive statement it has been said of them and for them that they are her daughters. By silence they have confessed it, and by action they have demonstrated it. And it is so. We are sorry; but so it is.

WE KNEW IT WAS COMING.

We have known for a long time that this evil thing of the union of Church and State would be created here. In 1886 the *American Sentinel* was established expressly to oppose it

and to expose the evil that is in it, and in the movement and the efforts that were being made to bring it about. From the first number of this journal that was ever issued, it has been telling the people that in the national government, though forbidden by the Constitution, there would be established a national religion ; and that there would be national Sunday legislation at the demand of the churches.

All this is now done by the United States Supreme Court decision of Feb. 29, 1892, and by Congress, in the act closing the World's Fair on Sunday. In these two governmental actions there lies wrapped up, and only waiting for swift development, all that we have been telling about, and warning against, all these years.

We knew it was coming. We knew it would be done. And this is why we so continuously and so earnestly protested, and warned the people against it. We knew not exactly *how* it would be done ; we only knew that it *would* be done. But we knew enough about the evil thing to be able to recognize it when it should be done, in whatever way it might be done. We have demonstrated over and over, by parallels of historical and ecclesiastical procedure, that this great evil must inevitably come as the result of existing conditions and of the efforts and aims of the churches ; but our knowledge that it was coming *antedated by many years* both the existing conditions and the efforts and aims of the churches to bring it about.

The first thing that was ever done by the churches to bring this about was thirty years ago, *i. e.*, February, 1863 ; while on our part we have known for more than *forty* years that it was coming. The religious denomination that now publishes this pamphlet, published more than forty years ago that there would be formed in this government, though prohibited by the Constitution and the fundamental principles of the government, a union of Church and State, with national legislation establishing Sunday as the Sabbath, and

with the churches in possession of the governmental power to enforce Sunday observance.

More than forty years ago this denomination put this announcement in print, and then, and through all the years since, this people have preached everywhere that this was coming and would surely be done. And now that it has been done, and exists before our eyes, we see exactly and only what we have been looking for all this time.

How then did we know that it was coming? We knew it by the word of God, in the scriptures of the prophets. The prophecy that announces it is in the thirteenth chapter of the book of Revelation; and there all may read it. In the first ten verses of that chapter there is given a description of the rise and career of a certain power under the symbol of "a beast." Then from the eleventh to the seventeenth verse inclusive, there is given the description of another power under the symbol of "another beast" and "the image of the beast." The first of these powers is also designated as "the first beast" and "the beast which had the wound by a sword." The full description of the first one is as follows:—

"And I stood upon the sand of the sea, and saw a beast rise up out of the sea, having seven heads and ten horns, and upon his horns ten crowns, and upon his heads the name of blasphemy. And the beast which I saw was like unto a leopard, and his feet were as the feet of a bear, and his mouth as the mouth of a lion; and the dragon gave him his power, and his seat, and great authority. And I saw one of his heads as it were wounded to death; and his deadly wound was healed; and all the world wondered after the beast. And they worshiped the dragon which gave power unto the beast; and they worshiped the beast, saying, Who is like unto the beast? Who is able to make war with him? And there was given unto him a mouth speaking great things and blasphemies; and power was given unto him to continue forty and two months. And he opened his mouth in blasphemy against God, to blaspheme his name, and his tabernacle, and them that dwell in heaven. And it was given unto him to make war with the saints, and to overcome them; and power was given him over all kindreds, and tongues, and nations. And all that dwell upon the earth

shall worship him, whose names are not written in the book of life of the Lamb slain from the foundation of the world. If any man have an ear, let him hear. He that leadeth into captivity shall go into captivity: he that killeth with the sword must be killed with the sword. Here is the patience and the faith of the saints."

Every person not a Catholic, who knows the A B C of history knows that this is a vivid sketch of the papacy and its career up to 1798 A. D. Every such person knows that the one great power to which all the nations have done homage the most, and for the longest time, is the papacy. Every such person knows that the most blasphemous power that was ever on the earth is the papacy. He likewise knows that the one power that has made war with the saints of God, and has overcome them the most cruelly, and has persecuted them the most widely and for the longest time, is the papacy. We know that to say this is not considered as proper Protestantism for these days; but proper Protestantism it is, nevertheless. For all this is true of the papacy, and has been true of it for ages. And everybody, Catholic, or non-Catholic, knows that the papacy is the union of Church and State, with the Church in possession of the power of the State to use in enforcing her decrees, and compelling men to submit to her dictation.

The description of the "other beast," or the image of the beast, is as follows:—

"And I beheld another beast coming up out of the earth; and he had two horns like a lamb, and he spake as a dragon. And he exerciseth all the power of the first beast before him, and causeth the earth and them which dwell therein to worship the first beast, whose deadly wound was healed. And he doeth great wonders, so that he maketh fire come down from heaven on the earth in the sight of men, and deceiveth them that dwell on the earth by the means of those miracles which he had power to do in the sight of the beast; *saying to them that dwell on the earth, that they should make an image to the beast*, which had the wound by the sword, and did live. And he had power to give life unto the image of the beast, that the image of the beast should both speak, and cause that as many as would not worship the image of the beast should be killed. And he causeth all, both

small and great, rich and poor, free and bond, to receive a mark in their right hand, or in their foreheads ; and that no man might buy or sell, save he that had the mark, or the name of the beast, or the number of his name."

This prophecy says that it would be said unto them, that "they should *make* an image to the beast." This would be to make an image to the papacy. The papacy being a union of Church and State, with the Church using the power of the State to enforce the doctrines of the Church and to compel submission to her decrees, the making of an image of this would be only to make or establish an order of things by which a union of Church and State would be created, with the civil power in the hands of the Church to compel submission to church doctrines, and observance of church institutions. But in order for this to be *made*, it must be that before this there was no union of Church and State in the place where this is to be done. As it is necessary to say "that they should *make* an image" of the papacy — that is, union of Church and State — it is plain on the face of it that this is said, and must be said, in a place where there is no union of Church and State, and where the Church has no control of civil affairs and no connection with the civil power.

Now where was there ever a place or a nation on earth in which there was no union of Church and State except in the United States alone? With the single exception of the United States government, there never was a government on earth, pagan, papal, or professed Protestant, in which from the beginning of its existence, as such, until this day, there was no union of religion and the State ; in which the religious power had no control of, or connection with, the civil power. This is the truth, and any one may satisfy himself of it by thinking, whether little or much. This being the truth, it follows that in the United States is the only place on earth where it could be said that they should *make* a union of Church and State. Consequently in the government of the United States alone could the image of the beast — the image

of the papacy — be made. There are many other points corroborative of this, but this is sufficient for this place.

It was because of this prophecy of Rev. 13 : 11–17 that it has been preached and published, for more than forty years that there would be formed in the United States a union of Church and State, with national Sunday legislation — that there would be made here an image of the papacy. For instance: Forty years ago — January, 1853 — a little pamphlet of about seventy-five pages, perhaps 2½ x 5 inches in size, was published, giving a brief exposition of Revelation 13, and especially that part in verses 11–17. On this point there was then written and printed the following : —

“The two-horned beast says to *them that dwell on the earth*, ‘Make an image.’ The dwellers on the earth, or territory of this beast, it seems, have a part to act in this work. This clearly marks *the United States as the scene of action*. This is the manner in which laws are made here — by the representatives of the people. As all men by the Declaration are declared to be equal, it became necessary that some course should be taken by which all could have equal privileges in the construction of the laws. If the whole mass were called together, there would be an endless discussion and no laws made. Therefore the people were to elect such representatives as would carry out their principles ; and they were to meet and make laws, which, when passed, should be considered the laws of the people. *The image is to be formed by the people or their representatives.*

“It appears probable to us that *this Sunday institution* is the very point on which this union will be effected. Here is a point on which all Protestant sects can unite. A point which we may safely say is *the* important item in the faith of Protestants is their Sunday worship.

“Verse 15. — ‘And he had power to give life unto the image of the beast that the image of the beast should both speak, and cause that as many as would not worship the image of the beast should be killed.’ From this text we may draw two conclusions : —

“1. The image of the beast is to be made in the same territory where the two-horned beast rules ; for the two-horned beast can exercise that authority in no territory but its own.

“2. That it already has it in its power to give life to the image of the beast, or cause the decree to be made and executed. Is it not in the power of the United States to pass such laws? They declare ‘all men shall be protected in worshiping God according to the dictates of their own con-

sciences.' We see the mass hold the first day of the week as a holy day. If a memorial should be sent in to Congress with 1,000,000 names signed to it, declaring that their rights were infringed upon, and praying them to pass a solemn enactment that the first day should not be profaned by labor, how soon the result would be a law upon the point.

• "Were the United States, as a body, to pass a law that Sunday should be kept holy, or not profaned by labor, there would be, I conceive, an image to the papacy; for the law would then be in the hands of the Church, and she could inflict penalties on those who did not obey the Sunday institution."

Now bear in mind that on the strength of that scripture prophecy, this was printed forty years ago—in 1853. And no man can deny that in 1892 the very things were done which in this exposition of the prophecy were said would be done. The churches professedly representing millions of petitioners, did this year memorialize Congress, with threats, in behalf of Sunday sacredness; and as the result Congress responded, as expressed by Senator Hiscock:—

"I would write the provision for the closure in any form that the religious sentiment of the country demands, and not stand here hesitating or quibbling about it. . . . I should make this closure provision satisfactory to those petitioners who have memorialized us against the desecration of the Lord's day."

And as expressed by the representative "Christian lobbyist" of the churches:—

"I have learned that we hold the United States Senate in our hands."

Yes, as shown by the "hearing" herein reported, they have the Senate, and Congress, and the law, and the government in their hands by which to sustain Sunday as a sacred day and prevent its desecration. By the prophecy we knew forty years ago that it was coming. And by the *facts* we know now that it *has* come. The prophecy is fulfilled.

Again: Nine years ago, in 1884, this same denomination printed the following on the same prophecy of Rev. 13: 11-17:—

"By this first beast is represented the Roman Church, an ecclesiastical body clothed with civil power, having authority to punish all dissenters. The image of the beast represents another religious body clothed with similar power. The *formation* of this image is *the work of* that beast whose peaceful rise and mild professions render it so striking a symbol of *the United States*. Here is to be found an image of the papacy. When the churches of our land, uniting upon such points of faith as are held by them in common, shall influence the State to enforce their decrees and sustain their institutions, *then* will Protestant America have formed *an image of the Roman hierarchy*."—"*Great Controversy*," Vol. IV, p. 278.

This has been done. The churches of our land *have* united upon the Sunday issue, and then united with the Catholic Church itself, and in this unity they have influenced the State to enforce the Church decree for Sunday observance, and to sustain the Church institution of Sunday. They have done it. And in the doing of it, they have made the living image of the papacy in this land. Nine years ago we published that this would be done; and now *it has been done*. On the strength of the prophecy we published that it would come; and on the strength of *facts*, everybody may know that it *has* come. The prophecy is fulfilled. The image of the beast is made, and lives, in the United States to-day.

Once more: Eight years ago, in 1885, this same people published on the same subject these words:—

"To secure popularity and patronage, legislators will yield to the demand for a Sunday law."—"Testimony" No. 32, p. 207.

Last year (1892) the churches made their demand for a Sunday law. They presented their memorials and petitions backed up with such persuasive words as those which follow from Presbyterian churches in Brighton, N. Y.; Parma Center, N. Y.; and Rochester, N. Y., and recorded in the *Congressional Record* of May 25, 1892, thus:—

"*Resolved*, that we do hereby pledge ourselves and each other, that we will from this time henceforth, refuse to vote for, or support for any office or position of trust, any member of Congress, either senator or representa-

tive, who shall vote for any further aid of any kind for the World's Fair except on conditions named in these resolutions."

To secure the popularity and patronage which were thus put up at public auction by the churches, our nation's legislators assembled in Congress *did* yield to the demand for a Sunday law, and did enact such a law in three distinct ways and places; and for the reasons as stated by themselves, thus: —

"If I had charge of this amendment in the interest of the Columbian Exposition, I would write the provision for the closure in any form that the religious sentiment of the country demands, and . . . I say to the junior senator from Illinois [Mr. Palmer] *he had better yield* to this sentiment, and not let it go out to the country that there is the slightest doubt that if this money shall be appropriated, the Exposition will be closed on Sunday. . . . I should make the closure provision satisfactory to those petitioners who have memorialized us against the desecration of the Lord's day." — *Senator Hiscock, Congressional Record, July 13, 1892, p. 6755.*

And again upon this demand for Sunday law, in the same debate, it was said: —

"Now, if gentlemen repudiate this, if they desire to reject it, . . . I should like to see the disclaimer put in white and black and proposed by the Congress of the United States. Write it. How would you write it? . . . Word it, if you dare; advocate it, if you dare. How many who voted for it would ever come back here again? None, I hope. . . . You endanger yourselves by opposing it." — *Senator Hawley, Id., p. 6759.*

It was the same way in the House. A dispatch from Washington to the Chicago *Daily Post*, April 9, 1892, gave the following from an interview with a member of the House Committee on the World's Fair: —

"The reason we shall vote for it is, I will confess to you, a fear that, unless we do so, the church folks will get together and knife us at the polls; and — well you know we all want to come back, and we can't afford to take any risks."

"Do you think it will pass the house?"

"Yes; and the Senate too. We are all in the same boat. I am sorry for those in charge of the Fair; but self-preservation is the first law of nature, and that is all there is about it."

Further and emphatic evidence on this point has already been given, on pages 52, 55, 57, and 59.

In the light, and upon the strength of the prophecy, we published nine years ago that they would do it. And now in their own words, we can publish and do publish, that they *have done* it. The prophecy is fulfilled. The image of the beast is made, and lives, in the United States to-day.

That which now remains is for it to go on and cause all, both small and great, rich and poor, free and bond, to receive the mark, and carry on the general and universal boycott upon all who refuse to keep Sunday, by which no one may buy or sell save he that has the mark, or the name of the beast, or the number of his name. But upon this,—

WHAT SAITH THE LORD ?

“And I saw another angel fly in the midst of heaven, having the everlasting gospel to preach unto them that dwell on the earth, and to every nation, and kindred, and tongue, and people, saying with a loud voice, Fear God, and give glory to him ; for the hour of his judgment is come ; and worship him that made heaven, and earth, and the sea, and the fountains of waters.

“And there followed another angel, saying, Babylon is fallen, is fallen, that great city, because she made all nations drink of the wine of the wrath of her fornication.

“And the third angel followed them, saying with a loud voice, *If any man worship the beast and his image*, and receive his mark in his forehead, or in his hand, the same shall drink of the wine of the wrath of God, which is poured out without mixture into the cup of his indignation ; and he shall be tormented with fire and brimstone in the presence of the holy angels, and in the presence of the Lamb ; and the smoke of their torment ascendeth up for ever and ever : and they have no rest day nor night, who worship the beast and his image, and whosoever receiveth the mark of his name. Here is the patience of the saints : *here are they that keep the commandments of God, and the faith of Jesus.*

“And I heard a voice from heaven saying unto me, Write, Blessed are the dead which die in the Lord from henceforth : Yea, saith the Spirit, that they may rest from their labors ; and their works do follow them. And I looked, and behold a white cloud, and upon the cloud one sat like unto the Son of man, having on his head a golden crown, and in his hand

a sharp sickle. And another angel came out of the temple, crying with a loud voice to him that sat on the cloud, Thrust in thy sickle, and reap : for the time is come for thee to reap ; *for the harvest of the earth is ripe. And he that sat on the cloud thrust in his sickle on the earth ; and the earth was reaped.*"

Just here while all are to be compelled to worship the papacy and its image, and to receive its mark, the Lord sends the everlasting gospel to all, calling them to *worship him* alone, who made heaven, and earth, and the sea, and the fountains of waters, for the hour of his judgment is come. And the sign which he himself has set up that men may know that he is the Lord, the true God, who made heaven and earth and the sea and the fountains of waters, is the Sabbath of the Lord. Eze. 20 : 20 ; Ex. 31 : 17 ; 20 : 8-11. There is also made the announcement of the fall of Babylon ; and then the dreadful warning against obedience to the decrees of the papacy anywhere, or its image here in the United States. And the next thing that follows is the coming of the Lord to reap the harvest of the earth. And the harvest is the end of the world. Matt. 13 : 39.

And this is how we have *known* all these years that there would be a union of Church and State formed in the United States with national Sunday legislation. This is why we have been telling the people by voice and pen, in every place and in every way, all these years, that this was coming. Now it is here, and no man can deny it. Here are the words which we published years ago that *it would come*, and no man can deny that. Men may disbelieve it, but they cannot deny it ; they may reject it, but they cannot disprove it.

While we were telling it, many would not *believe* it, and said it would never come. We *knew* it, and published that it would come. Now it has come. It is here. And this demonstrates unmistakably that we were right, and they were wrong. To all these we now say, Come now and stand with us that you may be in the right *now* on this great question.

And there are other things *yet to* come from this which *has* come, which are to be told. And we are going to tell these things as we have told the others ; for they are true.

That the "evangelical" churches of the United States have taken possession of the governmental authority of the United States, is plain to every one who will candidly consider the subject. That they purpose to keep this power and use it, they have plainly and repeatedly declared.

We are inquiring what effect this course will have upon the churches, and through them upon the State. So far, we have found that the effect upon the churches has been, stating it briefly, to commit them to open apostasy from the Lord and from his gospel ; to make them the chiefest law-breakers in the nation, even the destroyers of government itself ; and to form them into the grandest system of bribery that this nation ever saw — bribery in politics, bribery in business, and bribery in amusements. And all this, that they may be confirmed in their effort to make void the law of the Most High.

The churches profess that the course which they have taken is essential to the preservation of the State, and in this, the salvation of the nation. This view was also taken and plainly stated in the debates in Congress upon the bill.¹

¹ Senator Hawley said : —

"This very day and this hour, I would not for the wealth of ten expositions, have upon my shoulders the responsibility of having decided the question wrongly upon what may be a turning-point in the history of the United States. Open the Exposition on Sunday and the flood-gates are opened. . . . I ask you to regard that which is of immeasurable importance in *the salvation of a nation*, the great, profound sense of religious obligation." — *Congressional Record*, July 12, 1892, pp. 6699-6700.

Senator Colquitt said : —

"Without legislation relating to the great contests that are going on in this country, without the interference of bayonets, without calling upon the militia, without the marshaling of armed forces, if there is one palliative, if there is one preventive, if there is one check, if there is one remedy that is going to cure all of these discordant elements of strife and bloodshed, *it is the observance of the Sabbath-day* and the observance of the restraints of our home in addition." — *Ibid*, July 13, 1892, p. 6255.

Senator Frye said : —

"I believe that *the salvation of this country* depends upon the nearness to which it approaches the Sabbath of the early days. We have been wandering from it from time to time, getting away from it. The sooner we get back to it, the better it will be for this Republic." — *Ibid*, July 12, 1892, p. 6703.

What effect, then, can such a course have, and only have? We have before shown how that it was to help her bear an overweight of worldliness and worldly influences, that she grasped the arm of the State and formed this illicit connection with worldly power. We there pointed out the utter incongruity of seeking deliverance from an evil, by a positive alliance with the chiefest source of that evil; and how the only effect this could have upon the churches would be infinitely to increase the burden which they already found themselves unable to bear alone. How can *that* save the nation?

The Church of Christ is the divinely appointed means through which God would call the nations *to seek the Lord* that they might find him and be delivered from this present evil world: what, then, when these professed churches of Christ themselves seek the power of *this present evil world*, join themselves to it, and put their dependence upon it? How can *that* save the nation?

The Church of Christ is the divinely appointed agency to "*persuade men*" to join themselves *to the Lord*; what, then, when these professed churches of Christ *threaten* congressmen in order that they themselves may succeed in joining themselves *to the government*? How can *that* preserve the State or save the nation?

The Church of Christ is the divinely appointed agency to persuade men to send up their petitions to *the Lord* for help, and for deliverance from every burden and from every evil: what, then, when the professed churches of Christ themselves send up their petitions to *men*, even though the men be congressmen, and though the petitions be backed up with threats? How can *that* save the nation?

Both society and the State are already cursed with the insatiable demand for office, or position of trust, in return for political service rendered: what, then, when the professed churches of Christ make this the very chosen channel through which they would make successful their aims upon the State? What effect, then, can this have upon society

and the State, other than to increase this curse even to ruinous depths ?

Bribery is already become so common as easily to frustrate the will of the people in any general election : what, then, when these churches take the lead in "bribing with a monopoly of worldly honors and emoluments," all whom they can seduce to compliance with their arbitrary will, regardless of the will of the people, whether expressed in the supreme law or in the direct voice of the people ? What can be the effect of this upon the State, other than to increase in untold ratio the already too general corruption ?

By the enactment of wholesome laws, the people have been doing their best to protect themselves from the rule of the tyrannical spirit of the boycott. But how can the people protect themselves from this despotism, when the churches control the law-making power for the general community, and make the boycott in all business relations their chosen means by which to force submission to their will in the local community ? What, then, can be the effect of this, other than so to cultivate the spirit of spying and treachery as to destroy mutual confidence and individual integrity, set every man's hand against his neighbor, and fill the land with deceit and violence ?

Lawlessness is already so prevalent as almost to threaten the existence of a republican form of government ; what, then, when the professed churches of Christ at one leap, land themselves in the lead in this, by disregarding the *supreme* law, overriding the Constitution, and taking the governmental authority out of the hands of the people and into their own lawless hands ? In this they have accomplished their long-announced "object" "to change that feature of our fundamental law" which declares that "governments derive their just powers from the consent of the governed." But how can this preserve the State ? How can this save the nation ? What effect indeed can it possibly have other than

to produce here that condition of lawlessness and confusion, yet of ecclesiastical despotism, that is always created by attempts of the Church to rule?

Here, then, are these churches professing to be the churches of Christ, yet having gone away from him, their rightful Lord, and joined themselves to another; professing to minister the power of God, yet depending upon the power of man. Professing to minister the *gospel* of *Christ*, they actually minister the *laws* of *men*. Professing to *persuade* men with the message of *justification* by *faith* in *Christ*, they actually *compel* men by the *condemnation* of the *law* of *men*. Professing to lead in the way of righteousness, uprightness, and sincerity, they actually lead in the way of unrighteousness, corruption, and deceit. Professing themselves to be models of Protestantism, they have actually joined hands with Romanism, and follow her customs, and require all to receive the sign of her authority. Professing to be the example in all things good, they actually set the example in the chief things that are bad.

There is but one thing more that they can possibly do in this direction, and even this they will do, that is, enter into alliance with Satanic power itself, by joining hands with Spiritualism. This they will do as certainly as they have done that which they have done. Then will be completely fulfilled the prophecy which *now* is but partly fulfilled — Rev. 18 : 2, 3. We have already shown how these churches have presented themselves as “a cage of every unclean and hateful bird;” but *then* the whole of the verse will be fulfilled, and the world will hear that cry of the angel of the Lord which comes “mightily with a strong voice saying, Babylon the great, is fallen, is fallen, and is become the habitation of devils, and the hold of every foul spirit, and a cage of every unclean and hateful bird. For all nations have drunk of the wine of the wrath of her fornication, and the kings of the earth have committed fornication with her, and the mer-

chants of the earth have waxed rich through the abundance of her delicacies."

At the same time there is "heard another voice from heaven, saying, Come out of her my people, that ye be not partakers of her sins, and that ye receive not of her plagues. For her sins have reached unto heaven, and God hath remembered her iniquities." Rev. 18 : 4, 5. Thank the Lord, there are yet some of the people of God in these churches. There are yet some Christians there. But they cannot remain there much longer without becoming partakers of her sins. They cannot stay there much longer and remain Christians. They cannot stay there much longer without receiving of her plagues, and of the judgments of God upon her iniquities. Her judgment cometh and hasteth greatly. "Strong is the Lord God that judgeth her."

The yielding of the merchants to her boycott will do them no good, for it is written : —

"And the merchants of the earth shall weep and mourn over her ; *for no man buyeth their merchandise any more*: the merchandise of gold, and silver, and precious stones, and of pearls, and fine linen, and purple, and silk, and scarlet, and all thyine wood, and all manner vessels of ivory, and all manner vessels of most precious wood, and of brass, and iron, and marble, and cinnamon, and odors, and ointments, and frankincense, and wine, and oil, and fine flour, and wheat, and beasts, and sheep, and horses, and chariots, and slaves, and souls of men. And the fruits that thy soul lusted after are departed from thee, and all things which were dainty and goodly are departed from thee, and thou shalt find them no more at all. The merchants of these things, which were made rich by her, shall stand afar off for the fear of her torment, weeping and wailing, and saying, Alas, alas, that great city, that was clothed in fine linen, and purple, and scarlet, and decked with gold, and precious stones, and pearls ! For in one hour so great riches is come to nought." Rev. 18 : 11-17.

The popularity and patronage which legislators hope to have from pandering to her desires, will likewise do them no good, for it is written : "A mighty angel took up a stone like a great millstone, and cast it into the sea, saying, Thus with

violence shall that great city Babylon be thrown down and shall be found no more at all." Rev. 18 : 8, 10, 21.

Such being the final result to the churches, of this course of evil in which they have even now gone so far ; and the churches being one with the State in this course ; it is inevitable that the ruin of the churches will be the ruin also of the State. Therefore it is as plain as A B C that this course upon which these churches have entered means the destruction of the State and the ruin of the nation. What they in their apostasy and bad ambition promise shall save the nation, only proves its speedy and awful ruin. This is certain.

Not only is this evident from what has already been said, but this same thing has been worked out once in history, for the instruction of all people and nations, showing clearly enough just what the result must be. In the original apostasy, the Church succeeded in joining herself to the State, promising like this to save the State. The means then employed by Constantine and the bishops, in establishing the "Christian" religion and making that a "Christian State," were the same as now employed here, and were such as to win only hypocrites. This was bad enough in itself, yet the hypocrisy was voluntary ; but when through the agency of the Sunday laws the Church then, as now, secured control of the civil power to compel all who were not church members to act as though they were, hypocrisy was made compulsory ; and everybody who was not voluntarily a church member and a hypocrite, was compelled either to be a hypocrite anyhow, or a rebel. And as in addition to this, all were required to change or revise their faith according as the majority in the councils changed and decreed, all moral and spiritual integrity was destroyed. Hypocrisy became a habit ; dissimulation and fraud became a necessity of life ; and the very moral fiber of men and society was vitiated.

The pagan superstitions, the pagan delusions, and the

pagan vices, which had been brought into the Church by the apostasy, and clothed with a form of godliness, had wrought such corruption that the society of which it was a part could no longer exist. From it no more good could possibly come, and it must be swept away.

“The uncontrollable progress of avarice, prodigality, voluptuousness, theater-going, intemperance, lewdness,—in short, of all the heathen vices, which Christianity had come to eradicate, still carried the Roman empire and people with rapid strides toward dissolution, and gave it at last into the hands of the rude but simple and morally vigorous barbarians.” “Nothing but the divine judgment of destruction upon this nominally Christian, but essentially heathen, world, could open the way for the moral regeneration of society. There must be new, fresh nations, if the Christian civilization, prepared in the old Roman empire, was to take firm root and bear ripe fruit.”—*Schaff*.

And onward those barbarians came, swiftly and in multitudes. For a hundred years the dark cloud had been hanging threateningly over the borders of the empire, encroaching slightly upon the west and breaking occasionally upon the east. But at the close of the fourth century the tempest burst in all its fury, and the flood was flowing ruinously. And finally, in 476, when Odoacer, king of the Heruli, became king of Italy, the last vestige of the empire of Western Rome was gone, and was divided among the ten nations of barbarians of the North.

Wherever these savages went, they carried fire and slaughter, and whenever they departed, they left desolation and ruin in their track, and carried away multitudes of captives. Thus was the proud empire of Western Rome swept from the earth; and that which Constantine and his ecclesiastical flatterers had promised, as these have now promised one another, should be the everlasting salvation of the State, proved it speedy and everlasting ruin.

In that case the Lord made the savage nations of the North the instruments of his judgment in sweeping away the mass of corruption which the union of Church and State

had built up there. But in this case where can any such instruments be found? There are none. Civilization has encompassed the earth. Not only that, but in this case "all nations" are involved in the corruption. Where, then, shall the Lord find a people to execute his judgment and sweep away *this* mass of corruption? For the reasons given, they cannot be found upon the earth. A people is found, however, and here is the Lord's description of them:—

"Blow ye the trumpet in Zion, and sound an alarm in my holy mountain: let all the inhabitants of the land tremble: for the day of the Lord cometh, for it is nigh at hand; a day of darkness and of gloominess, a day of clouds and of thick darkness, as the morning spread upon the mountains: *a great people and a strong; there hath not been ever the like*, neither shall be any more after it, even to the years of many generations. A fire devoureth before them; and behind them a flame burneth: the land is as the garden of Eden before them, and behind them a desolate wilderness; yea, and nothing shall escape them. The appearance of them is as the appearance of horses; and as horsemen, so shall they run. Like the noise of chariots on the tops of mountains shall they leap, like the noise of a flame of fire that devoureth the stubble, as a strong people set in battle array. Before their face the people shall be much pained: all faces shall gather blackness. They shall run like mighty men; they shall climb the wall like men of war; and they shall march every one on his ways, and they shall not break their ranks; neither shall one thrust another; they shall walk every one in his path; and *when they fall upon the sword, they shall not be wounded*. They shall run to and fro in the city; they shall run upon the wall, they shall climb up upon the houses; they shall enter in at the windows like a thief. The earth shall quake before them; the heavens shall tremble: the sun and the moon shall be dark, and the stars shall withdraw their shining: and the Lord shall utter his voice before his army: for his camp is very great: for he is strong that executeth his word: for the day of the Lord is great and very terrible; and who can abide it?" Joel 2: 1-11.

"And I saw heaven opened, and behold a white horse; and he that sat upon him was called Faithful and True, and in righteousness he doth judge and make war. His eyes were as a flame of fire, and on his head were many crowns; and he had a name written, that no man knew, but he himself. And he was clothed with a vesture dipped in blood: and his name is called the Word of God. *And the armies which were in heaven followed him upon white horses, clothed in fine linen, white and clean.*

And out of his mouth goeth a sharp sword, that with it he should smite the nations; and he shall rule them with a rod of iron: and he treadeth the winepress of the fierceness and wrath of Almighty God. And he hath on his vesture and on his thigh a name written, KING OF KINGS AND LORD OF LORDS. And I saw the beast, and the kings of the earth, and their armies, gathered together to make war against him that sat on the horse, and against his army. And the beast was taken, and with him the false prophet that wrought miracles before him, with which he deceived them that had received the mark of the beast, and them that worshiped his image. These both were cast alive into a lake of fire burning with brimstone. And the remnant were slain with the sword of him that sat upon the horse, which sword proceeded out of his mouth: and all the fowls were filled with their flesh. Rev. 19:11-16, 19-21.

“And he shall send his angels with a great sound of a trumpet, and they shall gather together his elect from the four winds, from one end of heaven to the other.” Matt. 24:31. “And I saw as it were a sea of glass mingled with fire: and them that had gotten the victory over the beast, and over his image, and over his mark, and over the number of his name, stand on the sea of glass, having the harps of God. And they sing the song of Moses the servant of God, and the song of the Lamb, saying, Great and marvelous are thy works, Lord God Almighty; just and true are thy ways, thou King of saints.” Rev. 15:2, 3.

OUR POSITION BEFORE AND NOW.

As for us, all these years, with our time, our money, and our lives, we have protested against the doing of this great evil; and now in the same way and by the same means, we protest against the thing since it is done. We protest against the evil principle itself, and we protest and shall continue to protest against any and all the consequences of the principle.

We had the right to protest against the establishment of a national religion; and we have the right to protest against this national religion now that it is established. We had the right to disagree with the ecclesiastical combination which was bending every effort to secure the establishment of a national religion; and now that they have secured exactly what

they have been demanding, we still have the same right to disagree with them. We had the right to dissent from the propositions, the doctrines, and the dogmas of this ecclesiastical combination, before the United States government took their side of the controversy and championed their cause; and we have the same right still. In other words, we have, and every other man has, the divine and everlasting right to dissent from any and every religious organization on earth; and when the government joins a religious organization, then we have the same right still; and the right extends now to that of refusal of obedience to the government itself, *in so far* as it is joined to the religious organization.

The one great object of the grand movement to secure governmental recognition of religion was to secure legislation by which Sunday observance could be enforced throughout the nation, backed up by national power and influence. We protested against their movement, and disputed their right, to use the governmental power for any such purpose. Now that they have secured it, we still dispute their right to use it. We had the right to dissent from their claim of right to use the governmental power for any such purpose; and we have still the right to dissent from their use of the governmental power for this purpose.

We had the right to refuse to keep Sunday when it was required by the churches *without* the aid of the government; and we have the same right to refuse to keep it when it is required by the churches *with* the aid of the government. In other words, governmental aid of churches in enforcing their dogmas and ordinances cannot take away any man's right of dissent from those dogmas and ordinances. The government does wrong in aiding the churches; and men do right in dissenting from both churches and government in the things wherein they are allied.

It was lack of power to convince the people that they ought to keep Sunday as the Sabbath, that caused the

churches to demand the governmental power to aid in compelling the people to do this. Lacking the power to *persuade* the people, the churches resorted to power to *compel* the people to observe the ordinance of the Church. The religious controversy, as to whether Sunday is a sacred day or not, has been going on in the United States longer than has the movement to secure the recognition or declaration of the national government, that it is. Those who demand that Sunday shall be observed have admitted over and over again that "there is no divine command for it." And this is true. And the effort of these churches to secure the alliance and aid of the government was only an effort to get the national government to take their side of this controversy. They now have the government committed to this. In the effort to gain this they have been boastful, and arrogant, and insolent enough, in all conscience, as has been abundantly shown by their own words all these years. If any one is inclined to think they will be any less so, now that they have their wish, then the writer only wishes that one could have sat where he did, in the gallery of the House, when the final vote was taken by which Congress committed the government to their side of the controversy, and could have stood where he did in the committee-room at the Capitol where this hearing was held, and could have seen and heard their exultation.

In this act of closing the World's Fair on Sunday, Congress has distinctly taken sides in a religious controversy. Congress in this, and the Supreme Court in its decision, have committed the government of the United States to the decision of a religious controversy. Neither the act of Congress nor the decision of the Supreme Court, will convince the Jew, or the Christian who observes the seventh day, that Sunday should be observed. No more will the National Reformers be able to convince these with the aid of the power which these acts give, to inflict pains and penalties upon dissenters.

We disagreed with the National Reformers before ; we disagree with them now. We denied before, that Sunday should be observed ; we deny now that it should be observed. We refused before to keep Sunday ; we refuse now to keep Sunday. We rejected before, the National Reform claim of right to use the governmental power to compel anybody to keep Sunday ; and although they have secured the use of the power, we reject now their right to use it.

All these years we have denied the right of Congress to legislate in behalf of Sunday or any other religious rite or institution. We denied this wholly upon *principle*. We protested against Sunday legislation because it is religious legislation. We would have protested equally if it had been proposed to legislate in behalf of the seventh day or any other religious day. We can appeal to our record throughout, as clear evidence that this has always been the one grand feature and reason of our protest against Sunday legislation. And as long as the question had maintained this standing only, so long would this have still been the prominent feature of our protest. Now, however, the question has changed. Congress has now legislated upon the subject, and maintains the propriety of the legislation. Congress has now decided, and has committed the government to the decision, that Sunday is the Sabbath and shall be so observed. And now we protest against it, not only because it is religious legislation, but for the additional reason that *it is not true*. In this act, Congress has committed itself and the government to a falsehood.

Sunday is not the Sabbath. Sunday is not the Lord's day. Sunday is not in any sense a sacred day. As before stated, the chiefest advocates of this Sunday legislation admit in writing that there is no divine command for the observance of Sunday in any way. They know that the only authority for it is the authority of the Church. And if they do not

know, they, and everybody else who will look into the question may learn, that "the Church," which is authority for Sunday sacredness is *the Catholic Church*, and that alone. And they may likewise know that professed Protestants who keep Sunday, are following the authority of the Catholic Church, and that alone, for there is no other authority for Sunday observance whether by church rulers or governmental statute. And Congress in requiring the observance of Sunday, is requiring submission and obedience to the authority of the Catholic Church, for there is no other authority for Sunday observance.

It was therefore perfectly fitting that in the chief speech that was made in favor of the Sunday bill in the Senate (the speech of Senator Hawley of Connecticut), the chief place in the speech should be given to the views of Catholic archbishops upon the subject. But the authority of the Catholic Church is no authority at all; it is only usurpation and fraud, and its Sunday sacredness is a falsehood. Therefore it is that the Congress of the United States, in legislating in behalf of Sunday observance, has committed itself, and the government of the United States, to a falsehood. And not only to a falsehood, but to a *papal* falsehood. And we refuse to recognize it or yield any respect to it as either true or right.

The seventh day is the Sabbath of the Lord, and Sunday is not the Sabbath. The seventh day is the Lord's day, and Sunday is not. The seventh day is the sacred day and the only sacred day, and Sunday is not at all a sacred day. For thus saith the Lord:—

"Remember the Sabbath-day to keep it holy. Six days shalt thou labor, and do all thy work; but the seventh day is the Sabbath of the Lord thy God: in it thou shalt not do any work, thou, nor thy son, nor thy daughter, thy manservant, nor thy maidservant, nor thy cattle, nor thy stranger that is within thy gates: for in six days the Lord made heaven and

earth, the sea, and all that in them is, and rested the seventh day : wherefore the Lord blessed the Sabbath-day, and hallowed it."

"And God blessed the seventh day and sanctified it because that in it he had rested from all his work which God created and made." Gen. 2 : 3.

This is our position and our protest now and always.

CONCLUSION.

We know that in this contest, there is, and will be, arrayed against us, all the power that earth knows, with this power under the direction of the papacy, and the whole combination stirred up and urged on by Satan from beneath. But above all this we *know*, and are glad in the knowledge that Jesus Christ is with us, and he has said to us, "All power is given unto me in heaven and in earth. Go ye therefore, . . . and lo ! I am with you alway, even unto the end of the world." Christ has said it. It is so, and we know it. Therefore though all the power that earth knows be arrayed against us, we shall come off more than conquerors through him that hath loved us and washed us from our sins in his own blood. So that we may boldly say, "The Lord is my helper, and I will not fear what man shall do unto me."

We know that we shall be reproached. We know that we shall be denounced. We know that "anarchist," "infidel," "atheist," and every other opprobrious epithet will be applied to us. We know that we shall be despised, and that we shall be even the despised of the despised. We know that we shall be counted, and made, of no *reputation*. But we rest perfectly easy in our trust in Him, and our complete dependence upon Him, who "made *himself* of no *reputation*," in order that we might have his matchless *character*. We know that we shall have no *reputation*. But ah ! we know that we have the divine *Character* of Jesus Christ, which is well

pleasing to God. For "now the righteousness of God without the law is manifested, being witnessed by the law and the prophets. Even the righteousness of God which is by faith of Jesus Christ unto all and upon all them that believe." And we do believe in him, the glorious Son of God. Thanks to his dear name. It is not true that "the dearest treasure that mortal times afford, is spotless reputation." It is everlastingly and infinitely true that the dearest treasure that either mortal or immortal times afford, is spotless *character*. And that is alone the character of Jesus Christ, which was wrought out in his humiliation. That character is ours as an everlasting gift by faith in him. Men may take away our reputation. But we do not care for that, as we have a character which they cannot touch, for it is the gift of God.

We know that a general boycott will be placed against us by which we can neither buy nor sell, nor conduct any business. But for this we do not care. For we "have not received the spirit of bondage again to fear; but we have received the spirit of adoption, whereby we cry, Abba, Father. The Spirit itself beareth witness with our spirit, that we are the children of God. And if children, then heirs; heirs of God and joint heirs with Christ; *if so be* that we suffer with him, that we may be also glorified together." Rom. 8:15-17. "Joint heirs with Christ," are we? Of what is he heir? God hath "appointed him *heir of all things*, by whom also he made the worlds." Heb. 1:2. He being heir of all things, and we being joint heirs with him, we therefore are just as certainly heirs of all things, as is he. And so he tells us, "All things are yours: whether Paul, or Apollos, or Cephas, or the world, or life, or death, or things present, or things to come: *all* are yours; and ye are Christ's; and Christ is God's." 1 Cor. 3:21-23. So when they take away from us all things of earth, we still have left all things in heaven and

earth. And God has promised that our bread shall not fail ; but that bread shall be given us, and our waters shall be sure. Isa. 51 : 12-14 ; 33 : 16.

We know that the time will come when men will think that he that killeth us will be doing God service. And we know indeed that a decree will go forth that we shall even be killed. But for this we do not care. For "this is the record, that God *hath given* to us *eternal life*, and this life is in his Son. He that hath the Son hath life." *And we have him.* He gave himself a free gift to us, and he is ours. Christ is our life, and our life is hid with Christ in God, and *no man can touch it.* Therefore we fear not them who can kill the body, but after that have no more that they can do. Christ is our life. He is the Life-Giver. And he can and will raise the dead.

Christ, Christ is our refuge, our hope, our confidence, our power, our righteousness, our wealth, our life. And we stand in this contest with no other calculation nor consideration.

So we are not at all uneasy, nor any way in doubt as to the outcome. We knew that this was coming, which has come. We know that the rest of the events which we have pointed out as connected with this, *will* come, as surely as this already *has* come. And we know that the culmination of all these events, is that grand, triumphant scene, in which the prophet "saw as it were a sea of glass mingled with fire : and them that had gotten the victory over the beast, and over his image, and over his mark, and over the number of his name, stand on the sea of glass, having the harps of God. And they sing the song of Moses the servant of God, and the song of the Lamb, saying, Great and marvelous are thy works, Lord God Almighty ; just and true are thy ways, thou King of saints. Who shall not fear thee, O Lord, and glorify thy name? for thou only art holy : for all nations shall come and

worship before thee; for thy judgments are made manifest.
Rev. 15 : 2-4.

This is what we have in view. This victory, this triumph is promised to us; and it will surely come. For it we wait patiently and confidently. And to all the people we say as did David to Abiathar: Abide thou with us, fear not; for he that seeketh our lives seeketh thy life: but with us thou shalt be in safeguard. 1 Sam. 22 : 23. "Come thou with us, and we will do thee good: for the Lord hath spoken good concerning Israel."

APPENDIX.

EXTRACT FROM

SPEECH OF MAYOR WASHBURNE.

Before House Committee on World's Columbian Exposition.

Mr. Chairman and Gentlemen of the Committee: I was but recently notified that I might be called upon to speak before this committee. The subject is one of such vast interest, touching as it does the welfare of nine tenths of our population, I do not feel at liberty to decline to speak for want of proper preparation. The issue now raised, in order that it may be intelligently settled, must be clearly drawn and distinctly understood. It is not a question of abstract right or wrong; it is a question touching the absolute right of a vast majority of our entire population, now numbering over sixty millions of people, to enjoy the benefits of this great international Exposition. It is also a question whether the government of the United States will keep its faith with the nations of the world of all races and religions which is contained in the invitation to join with us in this great international Exposition. The preamble of the act of Congress passed April 25, 1890, creating the World's Columbian Exposition, says:—

“*Whereas*, Such an exhibition should be of a national and international character, so that not only the people of our Union and this continent, but those of all nations as well, can participate, and should, therefore, have the sanction of the United States; *therefore*, be it enacted,” etc.

When your honorable body used the words, “the people of our Union,” nothing less was meant, nor can these words be made to cover less, than the entire people, and if it be our entire people for whom this Exposition has been created, you must so legislate as to benefit a majority of those for whom you created this enterprise. You should not now legislate so as to deprive a majority of its benefits. If you legislate in favor of ten millions of those who protest against a Sunday opening, although they may be more numerous in this capital and their voices may be the loudest in demands, you will not have complied with your obligations and the assurances you have held out, nor met the demands of the less noisy but more numerous fifty millions of people. Moreover, th

exhibition created by Congress is, in the act of its creation, declared to be of international character, "so that not only the people of our nation and this continent, but those of all nations as well, can participate." This exhibition is to be the work of all the peoples of every race and creed. The Mohammedan and Hindoo, the people of China and Japan, all of whom know nothing of our Sabbath; the Jews, who observe another day; the peoples of Europe, who regard Sunday as a day of recreation; people without creed or religion, as well as people of every creed and religion, will participate in this Exposition. To keep our faith with all these people, this Exposition must be managed and conducted in all respects as near as may be upon a common ground, upon which all may come together. It is not *Christian* nations or people that you have invited, but *all* nations; and it is because all the nations and peoples of the earth are asked to participate, that you have declared that this Fair ought to have the sanction of the United States. I submit that good faith requires that the religious views, whether of a part or the whole of our people, in regard to Sunday observance or otherwise, should not be obtruded into the conduct of this Fair and upon the nations thus invited to participate, by any act of our own national government.

Another branch of this question touches, possibly, a constitutional principle. If the demand be that which is commonly accepted as the demand — that the World's Columbian Exposition shall be closed upon the first day of the week, commonly called Sunday, in order to testify to the world that this nation as a government recognizes the Christian religion as the religion of the land — if this be the ground upon which the closing of this Exposition is demanded, it is not justified by the principles of our Constitution. The Constitution of the United States, framed by those whose wisdom has never yet been questioned, provided, in Article I [of amendments], that, "Congress shall make no law respecting an establishment of religion." The fathers of our Constitution appreciated too well the evils and abuses that might result from permitting the Congress of the United States to legislate at all upon matters of religion or the observance thereof, or upon any question involving the religious beliefs of our people. They were descendants of a heroic people who had been persecuted and driven from the lands of their birth by such abuses of the functions of government. Our Constitution contemplates that, so far as federal legislation is concerned, religious beliefs and religious observances, as well with respect to days as to doctrines, shall be left untouched. You might as well impose upon the management of this Exposition the condition that a Jew or a Hindoo or Buddhist or heathen should be barred from its gates, as to say that the day of the week which is regarded as the Sabbath by a few of the people who are asked to participate, should be observed.

One is no less a violation of the spirit of the prohibition of the Constitution, with respect to the powers of Congress, than the other. If Congress is prohibited by the Constitution from making any laws respecting an establishment of religion—if it could not properly impose conditions as to religious creeds or the observance of religious rites or ceremonies—it is, I submit, equally improper in any law to designate any day, season, or time, and to compel its observance in obedience to any religion or creed. This would clearly establish a religion by federal law, and when you are asked to compel this Fair to close upon the first day of every week, in order to recognize the Christian Sabbath, and in obedience to that religion, you are asked to do that which plainly violates the spirit of the Constitution of the United States. This would then be done in national obedience to, and national observance of, a religion. And if you cannot close the Fair on Sunday on this ground, namely, as an act of national obedience to an observance of a religion which you shall thus recognize and follow in federal law making, upon what grounds and for what reasons can you shut its gates in the face of 50,000,000 of our own people, and of participating nations who do not know our Sunday, and who now demand that it shall be opened? I am only asking of you that the spirit of our Constitution, the welfare and wishes of a large majority of our common people, the good faith to the nations of the world, be considered and observed.

You must not think, because skilled orators are here opposed to a change in the present law, because the greatest noise is made by those who first secured this section in the law, because your doors are darkened by a well-dressed few, advocating Sunday closing, that you have heard the voice of the American people. Those who appeal to you for Sunday closing or an American Sunday are those who will not themselves be deprived of the privileges to see this Fair by reason thereof.

If your exhibition be for the rich and independent, my voice is silent; if it was conceived for the common people, we may well ask before too late, “Who are the people? where may they be found? and when called, from whence will they come?” Will the response be from those who can command their time and attend when they will—the wealthy or the well-to-do? If so, no exposition was needed to lay before them the treasures of human industry gathered from the world. The preamble of the Constitution reads, “We, the people of the United States.” In their name and for them you govern; to them alone you must make answer. To know who are the people we must first know who made history and sustained government.

It was for the common people that John, upon the field of Runnymede, placed his signet upon Magna Charta. It was the common people who swung the ax which severed Charles's head upon an English block. It was

the common people who brought Louis to the guillotine and made republican France a possibility of the future. It was the common people who fled from tyranny to the wilds of our then unknown continent to escape religious intolerance, and who cleared our forests, drove back the savage, and bred a fearless posterity who dared rebel against the encroachments of arbitrary government, and who have given us a Constitution in which religious freedom, as well as personal liberty, is guaranteed. It was the common people who first hammered their plowshares into those bayonets which immortalized Bunker Hill, and baptized a republic on the ramparts of Yorktown. It was the common people who carried our victorious flag on the seas in 1812, and who bore that same banner from '61 to '65. It was the common people who gave us a government, preserved its Constitution, and sank into unknown graves upon a thousand hillsides, which annually blossom with the product of a free nation

Who are the common people of this day who are asking that they may be recognized in their rightful and most righteous demand? Go forth over all this broad continent and seek them out; they will not be found in abodes of wealth; they will not be found conducting the affairs of commerce, but you will find them by millions among those who gather every sheaf of grain from ocean to ocean, and from the eternal snows to the eternal heat. You will find them by millions in the bowels of the earth, disarranging nature's laws to pamper man's increased appetite. You will find other millions answering the stars of heaven with the reflected light of a thousand furnaces upon a thousand plains. Knock upon the doors of every factory, every mill, and every hive of human industry, and millions more will answer the summons. Pass through our cities, and every brick and nail and stone and timber drawn together for the creation of buildings of commerce and for the housing of the multitude, represents the labor of a citizen; every hand hardened by honest toil, every brow made moist with the sweat of honest labor, is the badge of that citizenship which makes the common people.

The common people are not rich. Six days do they labor that they may live, and on the seventh, which alone they have for that purpose, consider it no crime to inhale God's air in parks, in groves, and fields, where nature speaks alike to all. To them it is no crime to study man's work upon the first day to benefit one's children and one's self, and they cannot submit to learn this national and international lesson at the price of bread to those at home. This enterprise was created for the common people and not those who would exclude from life the beauties of creation, the voices of birds, and the lights of intelligence on the first day of every week; not for those whose palaces conceal collected treasures from many continents; not for those whose wealth and cultured minds have exhausted travel or explored continents. Fifty millions of people, poor in purse, but rich in

enterprise and intelligence, are the constituency you serve, and every extra day you give to them will bear fruit a thousand fold ; deny them this, and you rob them of money, time, and instruction. If you now refuse the demand of the common people, and their voices appeal to deadened ears, *they will speak* upon some future day *as they have always spoken* when their demands, founded upon justice, based upon equity, and born of necessity, have been refused.

EXTRACT FROM

SPEECH OF SAMUEL GOMPERS,

*President of the American Federation of Labor, before House Committee on
Columbian Exposition.*

Mr. Chairman and Gentlemen of the Committee : The case in its general sense has been so well represented by the representatives of the city of Chicago, that I doubt the advisability or the necessity of referring to that branch of the subject in a general way. I desire to say that as one who has been a resident of the city of New York nearly all my life, and one who would have been a member of the Board of Directors, had the World's Columbian Exposition been located in the city of New York, that I feel a peculiar interest in this matter. I not only appear here in pursuance to the instructions of the great organization I have the honor to represent, but also in compliance with my own wishes and feelings upon the subject.

I well remember the discomfiture I endured, the feeling of disappointment that I underwent, when at the time of the Centennial Exhibition held in 1876, in the city of Philadelphia, I, then only a resident of New York, within a radius of one hundred miles of the city of Philadelphia, was unable to visit that exhibition because of the very fact that it was closed upon the only day that I would have had an opportunity to attend it ; and all through the months that that exhibition was open, each Sunday, each recurring Sunday, a pang went through my heart and through my mind at the thought that I was deprived of the opportunity of visiting the handicrafts and the results of human ingenuity. Not only for myself did I feel this, but since then I have made the acquaintance of hundreds of men in the city of Philadelphia, who, although residing there at that time, were unable to visit the exhibition because of the fact that it was closed on Sunday. There are thousands upon thousands of the residents of the city of Philadelphia, thousands and thousands of people within a radius of a few hundred miles of Philadelphia, who were deprived of the opportunity of visiting the exposition then, because it was closed upon Sunday.

I deny the right of any man or number of men to speak in the name of the wage-earners of America, and to say that they favor the closing of the World's Fair on Sunday.

After all, this is a practical question. Is it not true that those who oppose the opening of the World's Fair on Sundays, recognize this fact,—that the men and women who labor, who work six days in the week, should have an opportunity of visiting the World's Fair on one? Is it not true that the best day for them to visit the Fair would be on Sunday? I know that there are some patent processes proposed by which workmen shall be shipped like cattle to Chicago; but let me say that the workmen of this country ask for no such patent processes; they ask for opportunity and justice, not charity, or any other consideration.

We are willing to pay our way when we go, and if we cannot pay out way we will stay at home; but when we do want to go, when we have laid aside a few pennies every week in order to enable us to take advantage of possible reduced fares or possible commutations that are accorded to us by reason of our own representative, we want the opportunity to visit the Fair on all days of the week that we can devote to it. We say that this Fair is more in the interests of the toiling or wealth-producing masses of our country, than of any other particular class, if I may be permitted to use the term "class" in distinguishing the people occupying different positions in society.

This is to be an Exposition of the handicrafts, the wonderful genius of the peoples of this world. The organization I have the honor to represent maintains that you will give us the opportunity of going to that World's Fair every day of the week. If men and women desire to kneel at the altar of their God on Sundays, no one denies them that right. I would with my whole effort,—with my whole life, with every power that I may be possessed of, raise my voice and do what I could in order to insure the right of every man and woman and child to pray and preach, and preach and pray, as long and as steadfastly and as fervently as they may desire; but I do say this, on the other hand, that the right to do everything which is not a wrong against the laws of our country and the morals of our people, is not wrong, and should be allowed.

EXTRACT FROM

SPEECH OF REV. DR. W. H. THOMAS.

Before House Committee on Columbian Exposition, Jan. 13, 1893.

There was perhaps an almost unanimous agreement that in this great year of 1893, there should be held in this land a commemorative Columbian Exposition: and when the nations of the earth were asked to take

part in this, they gladly responded. So far there has been a happy agreement, not only in national, but in international, or world thought. The differences of opinion, or the disagreements, have arisen in reference to two facts: one is the Sabbath, and the other is the nature of this Columbian celebration; or, in other words, what the Sabbath is, and what it stands for; and what the World's Fair is, and what it stands for; and what should be the proper relation between our American Sunday, and this world exposition.

A reference was made very beautifully to the landing of the Pilgrim Fathers, — "They would not land on Saturday because it would necessitate work on Sunday, and so they waited until Monday." We honor their conscientiousness; but they had precisely these conscientious views of the Sunday when, a little later, they pressed and hanged the life out of fellow human beings, in Salem, because of witchcraft. Salem and Plymouth now have electric cars. The observance of the Sabbath is not so strict; but the humanity of the people has advanced most wonderfully.

This question of conscience, gentlemen, must be considered in its true light. Conscience is not set to determine what is right; conscience simply says, Do what is right. Every form of revelation should guide man in his judgment as to what is right; and it is precisely this in its broader interpretation that is leading the people of this country in such vast numbers to ask for a liberal construction of the Sabbath,—not to interpret it by the conscience of England when the intense phases of Sabbath observance were hers; not to interpret it in the light of what the Pilgrim Fathers thought. We honor their memory; they did what they thought was right; and we honor every man that stands for his conscience. I take off my hat to any man's conscience; but I ask the privilege of talking to his judgment, and the judgment will follow the conscience.

It ought to be conceded that we on the other side have at least conscience, and are sincere, if we have not such far-seeing judgment. We believe it is for the good of the world that in a proper way this Exposition be opened as a great school, intellectual and moral, for the people. We believe it is not only a mistake, but a positive sin, to close it.

We all see the necessity that some one shall labor; and we all see that connected with this there will be more or less noise and confusion on Sunday. Did any of you brethren ever attend a great religious convention? Did you ever know of one made possible without a great deal of work by somebody? Did any of you ever attend a great camp-meeting? Was there not a great deal of work connected with that camp-meeting? You talk about taking in money at the door; what is the difference between taking it in at the door, and asking the people for it as soon as they get in? [Laughter.] You cannot separate an amount of labor and business from

any great movement. I want to say that the directors of the Fair in Chicago—and I know these gentlemen—have never contemplated a free, open show there. They are studying the good of the people, and how the day can best be employed.

It has been said here that the railroads will not have less labor if the Fair is closed. Surely people will come on Sunday, and they will stay until Saturday night, and go home on Sunday.

We have to face a condition of things, and that condition of things is this: There will be from two to three hundred thousand people in Chicago every one of the twenty-six Sundays; vile places will be open; the churches would not hold a decimal fraction of the people, even if you could get them to them. A condition of things exists there; and we there say it is best to have the Fair open in the afternoon, and stop the machinery; we would be agreed to this. And if the national capital has anything not good enough to be shown on the holy day, let them cover it up! [Laughter.] And if any State in the union feels that its products are not good enough to be seen—its lessons of art and literature and morality—not good enough to be seen on Sunday, let them cover them up. It is their perfect right, and we would be glad to see them do it. And if any of the preachers are too conscientious to come during the week because it is open on Sunday, we shall only be sorry. I think most of them would not hesitate to take the train Monday morning because it ran all Sunday night to get there, and they would perhaps complain if it was behind time. I think most of us stop at hotels when we know those hotels sell liquors. You cannot separate the holy—what we call good—and the evil. We have got to move along with these things mixed together.

And if the government closes its part of the Exposition, and some of the States close theirs, there will be the expositions of the Old World, and we can look at these; and they cannot cover up the buildings, *nor the blue sky, nor the great, beautiful lake* right there. And if we can have religious services, all right; I would be willing to work in them, whether these other brethren would or not.

But I do not want any such pretense as this. I argue it is *right to open it*. And then if it is opportune and proper to have services, have them; but do not open the gates on that ground; *open it on its right merits*.

And I think that it is not unfair that I offer at least a mild protest against the unjust criticisms upon the men of Chicago, the women of Chicago, and upon our city as such. Is it our fault that God stretched a lake for three hundred miles north and south, and settled the fact that there should be a city on the lake, because it is on the highway? Is it our fault, or to our credit, that, twice burned down, we have rebuilt? Is it our fault that Chicago has a million and a half of people, and will soon be

the largest city in the United States? Are we to blame for it? Are we to blame because Congress voted to hold the Fair there? Are we to blame because we are doing everything we can to make the Fair all that is possible? Are these commissioners to blame, having accepted the decision of Congress, and upon that, accepted the money,—are they to blame because they asked Congress to reconsider this?

Now we must admire the earnestness and ability of the ladies and gentlemen on the other side of the question. I confess I admire their ability, and I applaud their earnestness; but we can hardly approve all their methods. In the first place, they have assumed from the beginning, that to open the World's Fair on Sunday is a desecration of the Sabbath; that the nations would be sanctioning the trampling of the American Sabbath into the dust. They have assumed all that,—*the very question at issue*; and on that supposition, they have gone before the people and have asked for petitions, and they have got, they say, thirteen million, representing what?—Gratuitously assumed to be the evangelical churches of this country. Thirteen million of them. Multiply that by three, and they get thirty-nine million,—over half the population; and I think if they had had a little more time they could have got fifty million. We have to suppose that a great deal of this is voting in bulk. Is it true of the many churches, is it true of Protestantism, that preachers can deliver over the judgment and consciences of the people of their churches?—I think not.

And then I think we have a right to complain, further, that there has been a steady effort, not only here but elsewhere, to cast suspicion upon those representing the other side; and if it were merely a personal matter—unbrotherly, not to say ungentlemanly, as it has been—it should receive no word or notice here. It is done with the deliberate intent of prejudicing the jury, just as has been the effort to prejudice the jury against the directors at Chicago. These are honorable men, American citizens, working for the good of the Fair, and for the good of the people; and if they believed the Sabbath in any sacred sense was in danger, they would rush to its support as quickly as any man in this room. I know these men; I know the heart of Chicago; I have lived and worked there for twenty-three years.

Why this effort to prejudice our cause by saying that “only two preachers from all the United States could be got to argue it?”—“one a Trinitarian,—that is, he thinks God is so *one* that he is not *three*; and “the other preaches in a theater in Chicago!” Probably our ideas of the value of sanctified brick and mortar are not as exalted as the ideas of some of these brethren. We do not draw these great lines between the sacred and the secular, as they do. We think that a theater or any other convenient place is just as sacred as a church, when it is used for a sacred purpose.

And why? — what does it mean upon this question if one of these preachers has been disturbed in his church relation, and, after a quarter of a century of hard work, driven out? What has that to do with this question? Have not others been driven out? and are they not trying to drive still others out? Not only this, but we fared less kindly with the American Sabbath Union, for which I have a high respect. When this question was up in Chicago, they characterized the opposition as disreputable. Cardinal Gibbons, of Baltimore, disreputable! Bishop Potter, of New York, disreputable! Robert Collier, David Swing, disreputable! The seven or eight hundred of the noblest women in Chicago, the Woman's Club representing the mothers and wives, much of the culture and wealth of that city, disreputable! Casting a stigma upon the other side! Thank God, our side does not call in any such justification. We respect the conscience and the ability of these men; we differ from them in judgment, and hence we plead our side of the question.

And, gentlemen, there is a great question at issue here, one of the greatest almost in the history of our country for many years,— *the question of the government and religion.*— I do not criticise the action of Congress. They represented what they supposed to be the will of the people, as it was their duty to do. But there is a feeling over this country, deep and growing, that *the old love of power, that has been the curse of Christianity in the past*, making it a part of the State, making heresy treason,— that this old love of power *is not entirely dead*. This thing of conscience is a strange thing. If it should ever come that moral power through legislation becomes effective power in this land, who could trust the consciences of those who wield it? The persecutors of the past were conscientious men; the hangers of those who perished in the East, for witchcraft, were conscientious men. It is the glory of this land that the civil and the religious are separated, and let them stand forever separated!

And I tell you there is growing sentiment on our side; there is no doubt of it. What does it mean when all these laboring millions speak? I suppose if we had the exact fact of the petitions, they would stand about this way: Quite a number, perhaps a majority, of the evangelical churches, as the subject has been presented, would say, Open the Fair on the Sabbath; the preachers — a part of them — of the evangelical churches would say, Close it; and yet not all of them. There is a growing sentiment, and it would be the most unfortunate thing, in my mind, if that Fair is closed on Sunday. If closed, and the millions are there, and Sunday comes, they will ask, "Why is it closed? Why can't we go in to see what we have produced, and the world has produced?" "The government has said, 'You can't go in.'" "Why did the government say so?" — At the request of the vanishing, moribund idea of the Sabbath — not the real Sabbath — but

a special form of its observance. And what will be the result?—The result will be to make wider the gap—already too wide—between the people and the church. Already too wide is the gap.

SPEECH OF MISS SUSAN B. ANTHONY.

Before House Committee on Columbian Exhibition, Jan. 12, 1893.

Mr. Durborow.—Miss Anthony, If you desire to speak, you may have two or three minutes.

Miss Susan B. Anthony.—I have been invited to come here by several gentlemen who are on what is termed the liberal side of this question, and that is on the side of an open Fair.

I remember very well the Centennial in Philadelphia, and I remember Lucretia Mott, and that she never stepped her foot within the gates of the Centennial simply because of the bigotry that shut the doors on Sunday. I have always venerated her conscience in that matter. And I believe that the Fair should be open.

While sitting here listening to these different speeches, I was looking back to the days when Philadelphia did not allow Sunday street-cars. Everybody had to walk on Sunday. And what a long struggle it was to get the street-cars to run on that day. What Philadelphian, what churchman, or minister would propose to stop the street-cars in Philadelphia or any other city on Sunday? And then I remember the Art Gallery in Philadelphia; what a long struggle it was to get that Gallery open; and now it is open. And I remember when the Central Park in New York was first established. There was a general outcry against allowing the people to go to it on Sunday. And I remember that I went up every Sunday on purpose to vindicate my religion. And it was the joy of my life to see poor washerwomen, both black and white, come up to the Park and enjoy it. Then they had another big, long fight before there was any music allowed in the Park on Sunday. And now we have music in Central Park on Sunday, and the poorest of the poor, who can get five cents up and five cents back, can go and enjoy that music on Sunday afternoon. Then there was another big fight against the Metropolitan Museum in the Park in New York. I do not believe that any one will say that it produces immorality, that it does anything but give to the poor the opportunity of becoming educated in the grand and glorious results of human skill.

I hope the Fair will be open. I want to speak in behalf of women especially. I know scores and scores of women who are saving their

money to go to Chicago and spend a week during the Fair; and if the Chicago Fair Committee and if the Congress of the United States say that they shall sit quietly outside those gates, and shall not be allowed to go in and study the wonders inside those gates,—I think it is a tyranny that should not be practiced by the Congress of the United States.

THE Fifty-second Congress expired March 4, 1893, without any reversal of its acts in the matter of Sunday closing. In fact it did even worse than this, it took another step in the enforcement of Sunday sacredness, at the dictate of the churches. The following is the record :—

SUNDAY CONCERTS IN PENSION OFFICE BUILDING.

Mr. Quay.—I present a petition of sixty clergymen of the City of Washington, which I ask to have read.

The Vice-President.—The petition will be read if there be no objection.

The Chief Clerk.—The petition is as follows :—

To the President of the United States, the Secretary of the Interior, and the Senate and House of Representatives in Congress assembled:

A PETITION.

Whereas, It having been announced by the Inaugural Committee through the daily papers that, as a part of the program for the inaugural ceremonies, three concerts by the Marine Band are to be held in the Pension Office building, on Sunday, March 5, proximo; and

Whereas, The Congress of the United States, *in deference to the Christian sentiment of the nation* clearly and unmistakably expressed by the religious press, the pulpit, and by petition, has by legal enactment closed the doors of the Columbian Exposition on Sundays :

Therefore, believing to permit the holding of such concerts on Sunday by a band of musicians connected with one of the great departments of the government in a government building which is occupied by another great department, and as a part of the ceremonies connected with the inauguration of *the President of this great Christian nation*, by and with the sanction of her chosen rulers, would be *a national sin*; believing also that such desecration as proposed is unprecedented, would result in incalculable harm, and would be used as an authority and example for the complete secularization of Sunday :

We earnestly petition that orders be issued forbidding the use of any government building for such purpose on that day.

Signed by W. R. Graham, pastor of Congress Street Methodist Protestant Church; W. Sherman Phillips, pastor of Mt. Tabor Methodist Protestant Church, and many others.

The Vice-President.—The petition will be referred to the Special Committee on Inaugural Ceremonies.

Mr. Quay.—In this connection I desire to state that I took pains to ascertain whether the statements of the petitioners are correct. In the *Washington Post* of Sunday last I find a paragraph which I ask the Chief Clerk to read. It will be observed that the music by the Marine Band is not exactly sacred,

The Vice-President.—The Chief Clerk will read as requested.
The Chief Clerk read as follows :—

SUNDAY MORNING, MARCH 5, 10 O'CLOCK.

1. March, "Excelsior" Mrs. G. B. Peet
 2. Overture, "Robespierre" Litolff
 3. Song, "The Lost Chord" Sullivan
 4. Selection from "Faust" Gounod
 5. { a. "Slumber Song" } Schumann
 - { b. "Arabesque" }
 6. Cornet Solo, "Inflammatus" Rossini
- Mr. William Jaegar.
7. "La Benediction des Poignards" Meyerbeer
 8. "Scenes Picturesque" Massenet
 9. "A Trip to Mars" Fanciulli
 10. Patriotic Song, "Hail, Columbia" Fyles

SUNDAY AFTERNOON, 1 O'CLOCK.

1. March, "The Evening Star" Fanciulli
2. Overture, "King Lear" Bazzini
3. Sacred Song, "The Holy City" Adams
4. Poem Symphonic, "Les Preludes" Liszt
5. "Siciliana" and "Intermezzo" from "Cavalleria Rusticana" Mascagni
6. Fantasie, "The Voyage of Columbus" Fanciulli
7. "Nearer, my God, to Thee."
8. Selection from "Queen of Sheba" Gounod
9. March, "The Army of the Potomac" Fanciulli
10. "My Country, 'T is of Thee"

SUNDAY NIGHT.

1. March "The Calumet" Zimmerman
2. Overture, "Village Festival" Keefe
3. Euphonium Solo, "Rocked in the Cradle of the Deep" Rollinson
4. "Scenes in Switzerland" Langey
5. { a. "Pilgrims' Congress" }
- { b. Song, "The Evening Star" } Wagner
6. Grand Fantasie on National Airs Zimmerman
7. Czardas's "Last Love" Brahms
8. { a. "Traumerei" }
- { b. "Adieu" } Schumann
9. "The Happy Hunting Grounds" Schubert
10. Patriotic Song, "Star-Spangled Banner" Bucallossi

Mr. Quay.—To show that these concerts are to be held for the purpose of obtaining money, I send up a paper to be read. It is not signed by the officials in charge of the inaugural ceremonies, but it is on their official paper and furnished in response to a request for information.

[Inaugural ceremonies, March 4th, 1893.—General Committee: James G. Berret, Chairman; Alex. Porter Morse, secretary; Charles G. Glover, treasurer. Executive Committee: James L. Norris, Chairman; J. Fred. Kelley, secretary; William Cranch McIntire, corresponding secretary; James L. Barbour, Henry L. Biscoe, Gen. H. V. Boynton, Alexander T. Britton, John Joy Edson, Rear-Admiral S. R. Franklin, U. S. N., Lawrence Gardner, Curtis J. Hillyer, Robert O. Holtzman, J. Harrison Johnson, Charles C. Lancaster, George W. McLanahan, Theodore W. Noyes, John W. Ross, Francis A. Richardson, Richard Smith, Michael I. Weller, Beriah Wilkins.]

HEADQUARTERS, LENMAN BUILDING,
1425 NEW YORK AVENUE,
Washington, D. C. — — —, 1893.

Price of ball tickets, \$5.

Price of concert in morning and afternoon of Sunday and Monday, 50 cts.

Price of evening concerts Sunday and Monday, \$1.

Programs have not yet been issued.

Mr. Quay.—In view of these facts, although not exactly in order at this time, I ask for the adoption of the resolution which I send to the desk.

Mr. Mc Pherson.—Before the Senator offers his resolution, I should like to inquire what the paper relates to which has just been read by the Secretary. I could not understand from the language whether it is a petition from our own people or from citizens of a foreign government. I was unable to ascertain from the reading what language it is printed in. I should like to know to what the whole matter relates.

Mr. Quay.—The whole matter relates to the question whether the persons in charge of the inaugural ceremonies have by lawful means obtained the pension building for the purpose of holding musical concerts there next Sunday. That is the allegation of the petition which has been read and which is signed by, I believe, sixty ministers of the city of Washington. I ask for the immediate consideration of the resolution.

The resolution was considered by unanimous consent, and agreed to, as follows : —

Resolved, That the Secretary of the Interior be requested to inform the Senate whether authority has been given for the use of the building of the Pension Office by any person or persons on the first day of the week, commonly called Sunday, for musical concerts at which a pecuniary charge is made for admission.

IN THE SENATE OF THE UNITED STATES.

LETTER FROM THE ACTING SECRETARY OF THE INTERIOR,

In response to Senate resolution of Feb. 28, 1893, relative to the use of the Pension Building for Sunday concerts.

MARCH 15, 1893.—Laid on the table and ordered to be printed.

DEPARTMENT OF THE INTERIOR,

WASHINGTON, March 14, 1893.

SIR : I have the honor to acknowledge the receipt of a resolution of the Senate, under date of the 28th ultimo, as follows : —

Resolved, That the Secretary of the Interior be requested to inform the Senate whether authority has been given for the use of the building of the Pension Office by any person or persons on the first day of the week, commonly called Sunday, for musical concerts, at which a pecuniary charge is made for admission.

In response, I beg leave to submit herewith a copy of correspondence relating to the subject, from which it will be observed that permission to use the Pension Office for the purpose referred to in the resolution was expressly refused by the Secretary of the Interior.

The building has not been used on Sunday for such purpose.

Very respectfully,

GEO. CHANDLER, *Acting Secretary,*

THE PRESIDENT OF THE SENATE.

DEPARTMENT OF THE INTERIOR,

WASHINGTON, March 1, 1893.

SIR: My attention has been called to the fact that it is the purpose of the inaugural committee to open the Pension Building on Sunday, the 5th instant, for one or more musical entertainments, at which a charge for admission will be made.

I have to inform you that, in granting the use of this building for the inaugural ball, it was not contemplated that the building should be open to the public on Sunday, and, as there will be opportunity on the subsequent day, during which the building is at the disposal of the committee, to give the concerts referred to, the use of the Pension Building on Sunday for that purpose will not be permitted.

Very respectfully,

JOHN W. NOBLE, *Secretary*.

COL. JAMES G. BERRET,

Chairman Inaugural Committee, Present.

DEPARTMENT OF THE INTERIOR,

WASHINGTON, March 1, 1893.

Respectfully referred to the Commissioner of Pensions for his information, and who will take such measures as may be necessary in order that the views herein expressed be carried into effect, and that the Pension building be closed to the public on Sunday the 5th instant.

JOHN W. NOBLE, *Secretary*.

[Telegram.]

LAKEWOOD, N. J., March 1, 1893.

The Secretary of the Interior:—

I am strongly opposed to the use of the Pension Building for a Sunday concert on the 5th instant, and object to regarding such a thing as a feature of inauguration.

GROVER CLEVELAND.

[Telegram.]

DEPARTMENT OF THE INTERIOR,

WASHINGTON, March 1, 1893.

Hon. Grover Cleveland, Lakewood, N. J.:—

Your telegram received. Orders were issued already, forbidding the use of the Pension Building on Sunday, and I am gratified that this action is in accordance with your wishes.

JOHN W. NOBLE, *Secretary*.

DEPARTMENT OF THE INTERIOR,

WASHINGTON, March 1, 1893.

SIR : Since my letter to you of this date, relative to the use of the Pension Office Building for a musical entertainment on Sunday next, I have received a telegram from Mr. Cleveland, of which I inclose a copy, expressing his strong opposition to the use of the building for a Sunday concert, and objecting to such concert as a feature of the inauguration. I also inclose for your information a copy of my reply thereto.

Very respectfully,

JOHN W. NOBLE, *Secretary.*

COL. JAMES G. BERRET,

Chairman Inaugural Committee, Present.

This closes the official record of the churches and the Fifty-second Congress, on the question of National Sunday observance. And the unquestionable evidence of that record is, that the governmental power of the United States is in the hands of the churches, and is being used by the churches for their own aims and purposes. A union of Church and State, after the very image of the papacy, has been created and established here by the proceedings shown in this official record. This great evil has been done. *And it can never be undone.* The result of it will be what has been pointed out in the body of this pamphlet. This is certain, and the order of coming events will only demonstrate it before the eyes of all the people.

